HB 28 [HCS#2 HB 28]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows common carriers of household goods to request rate adjustments from the Highways and Transportation Commission and repeals the exemption for household carriers under Chapter 390, RSMo

AN ACT to repeal section 390.030, RSMo, and to enact in lieu thereof two new sections relating to carriers of household goods.

SECTION
A. Enacting clause.
387.075. Rate schedules for transportation of certain household goods — application and filing procedures.
390.030. Vehicles exempted — discrimination prohibited, when.

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

SECTION A. ENACTING CLAUSE. — Section 390.030, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 387.075 and 390.030, to read as follows:

387.075. RATE SCHEDULES FOR TRANSPORTATION OF CERTAIN HOUSEHOLD GOODS — APPLICATION AND FILING PROCEDURES. — 1. Notwithstanding any provision of chapter 390, RSMo, chapter 622, RSMo, or this chapter to the contrary, any common carrier that is authorized to transport household goods by a certificate issued under section 390.051, RSMo, may file one or more applications to the state highways and transportation commission for approval of rate schedules, applicable to that carrier's intrastate transportation of household goods, that authorize periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in the carrier's prudently incurred costs of providing transportation of property by motor vehicle. The filing of applications by common carriers under this section shall be authorized upon the same terms and conditions as provided in section 386.266, RSMo, with reference to the filing of applications to the public service commission by an electrical, gas, or water corporation. These applications shall be made in such form, and shall contain such information, as the state highways and transportation commission reasonably may require.

2. Notwithstanding any provision of chapter 390, RSMo, chapter 622, RSMo, or this chapter to the contrary, the state highways and transportation commission shall consider and determine every application filed under subsection 1 of this section, upon the same terms and conditions as provided in section 386.266, RSMo, with reference to the public service commission's consideration and determination of applications by an electrical, gas, or water corporation under that section.

3. In proceedings under this section, common carriers and the state highways and transportation commission shall be governed by the statutes and rules of practice and procedure that are applicable in motor carrier proceedings under chapters 387, 390, and 622, RSMo, except to the extent they are inconsistent with the requirements of this section. The statutes and rules that generally govern public service commission proceedings relating to electrical, gas, and water corporations shall not apply in proceedings under this section.

390.030. VEHICLES EXEMPTED — DISCRIMINATION PROHIBITED, WHEN. — 1. The provisions of this chapter shall not apply to:

(1) School buses;

(2) Taxicabs;

(3) Motor vehicles while being used exclusively to transport;

(a) Stocker and feeder livestock from farm to farm, or from market to farm,

(b) Farm or dairy products including livestock from a farm or dairy,

(c) Agricultural limestone or fertilizer to farms,

(d) Property from farm to farm,

(e) Raw forest products from farm, or

(f) Cotton, cottonseed, and cottonseed hulls;

(4) Motor vehicles when operated under contract with the federal government for carrying the United States mail and when on a trip provided in the contract;

(5) Motor vehicles used solely in the distribution of newspapers from the publisher to subscribers or distributors;

(6) The transportation of passengers or property performed by a carrier pursuant to a contract between the carrier and the state of Missouri or any civil subdivision thereof, where the transportation services are paid directly to the carrier by the state of Missouri or civil subdivision;

(7) Freight-carrying motor vehicles duly registered and licensed in conformity with the provisions of chapter 301, RSMo, for a gross weight of six thousand pounds or less;

(8) The transportation of passengers or property wholly within a municipality, or between contiguous municipalities, or within a commercial zone as defined in section 390.020, or within a commercial zone established by the division of motor carrier and railroad safety pursuant to the provisions of subdivision (4) of section 390.041; provided, the exemption in this subdivision shall not apply to motor carriers of persons operating to, from or between points located wholly or in part in counties now or hereafter having a population of more than three hundred thousand persons, where such points are not within the same municipality and to motor carriers of commodities in bulk to include liquids, in tank or hopper type vehicles, and in a commercial zone as defined herein or by the division;

(9) Street railroads and public utilities other than common carriers as defined in section 386.020, RSMo;

(10) Motor vehicles whose operations in the state of Missouri are interstate in character and are limited exclusively to a municipality and its commercial zone;

(11) Motor vehicles, commonly known as tow trucks or wreckers, designed and exclusively used in the business of towing or otherwise rendering assistance to abandoned, disabled or wrecked vehicles;

(12) Motor vehicles while being used solely by a group of employees to commute to and from their place or places of employment, except that the motor vehicle must be driven by a member of the group.

2. Nothing contained in this section shall be deemed to exempt the vehicles of driveaway operators.

3. Except for the provisions of subdivision (5) of section 390.041, the provisions of this chapter shall not apply to private carriers.

4. No agency of state government nor any county or municipality or their agencies shall discriminate against any motor carrier or private carrier or deny any such carrier operating a motor vehicle public access to any building, facility or area owned by or operated for the public unless such discrimination or denial is based solely on reasonable vehicle size or weight considerations. The provisions of this subsection shall only apply in cities not within a county and first class counties with a charter form of government which adjoin any city not within a county.

5. Beginning January 1, 2008, the exemptions in subdivisions (8) and (10) of subsection 1 of this section shall not apply to intrastate motor carriers that transport household goods.

Approved June 30, 2007

HB 41 [SCS HB 41]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding law enforcement

AN ACT to repeal sections 43.030, 43.050, 43.090, 43.220, 43.530, 84.120, 84.170, 86.365, 195.503, 590.040, and 650.120, RSMo, and to enact in lieu thereof twelve new sections relating to law enforcement, with an emergency clause for certain sections.

SECTION

A. Enacting clause.
43.030. Superintendent — qualifications, appointment, powers.
43.050. Officers and other personnel, numbers authorized — exceptions — enforcement of gaming activities, when — discrimination prohibited.
43.090. Patrol offices — clerical force — radio station.
43.220. No authority to exceed duties authorized in this chapter.
43.530. Fees, method of payment — criminal record system fund, established — fund not to lapse.
43.546. Fingerprinting of applicants for background checks permitted by state agencies, boards, and commissions, when — procedure.
43.547. Gubernatorial appointees, fingerprint background checks required — procedure.
84.120. Police force members — qualifications — removal — delegation of jurisdiction of hearing officers, functions (St. Louis).
84.170. Police force vacancies and promotions — rules of board (St. Louis).
195.503. Definitions.
590.040. Minimum hours of basic training required.
650.120. Grants to fund investigations of Internet sex crimes against children — panel, membership, terms — local matching amounts — priorities — training standards — information sharing — panel recommendation — power of arrest — sunset provision.
86.365. Special advisors, qualifications, compensation.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 43.030, 43.050, 43.090, 43.220, 43.530, 84.120, 84.170, 86.365, 195.503, 590.040, and 650.120, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 43.030, 43.050, 43.090, 43.220, 43.530, 43.546, 43.547, 84.120, 84.170, 195.503, 590.040, and 650.120, to read as follows:

43.030. SUPERINTENDENT — QUALIFICATIONS, APPOINTMENT, POWERS. — 1. The superintendent of the Missouri state highway patrol shall be appointed **from the uniformed membership of the patrol** by the governor by and with the advice and consent of the senate. The superintendent shall hold office at the pleasure of the governor. The superintendent shall be a citizen of the United States and a resident taxpaying citizen of this state for a period of three years previous to being appointed as superintendent and shall be at least thirty years of age. The superintendent shall maintain an office **[**and reside**]** in Jefferson City.

2. The superintendent of the Missouri state highway patrol shall:

(1) Have command of the patrol and perform all duties imposed on the superintendent and exercise all of the powers and authority conferred upon the superintendent by the provisions of this chapter and the requirements of chapter 650, RSMo;

(2) Within available appropriations, establish an equitable pay plan for the members of the highway patrol and radio personnel taking into consideration ranks and length of service.

43.050. OFFICERS AND OTHER PERSONNEL, NUMBERS AUTHORIZED — EXCEPTIONS — ENFORCEMENT OF GAMING ACTIVITIES, WHEN — 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 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. **The superintendent may enter into an agreement with the Missouri gaming commission to enforce any law, rule, or regulation, conduct background investigations under the laws of this state, and enforce the regulations of licensed gaming activities governed by chapter 313, RSMo. A notice of either party to terminate or modify the provisions of such agreement shall be in writing and executed not less than one year from the effective date of the termination or modification, unless mutually agreed upon by the superintendent and the Missouri gaming commission.** 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**]** **five** years.

4. **[**Members**]** **Member positions** of the patrol **[**hired**]** **originally acquired** 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.

43.090. PATROL OFFICES — CLERICAL FORCE — RADIO STATION. — **[**The board of public buildings shall provide suitable offices for general headquarters at Jefferson City, Missouri, which shall at all times be open and in charge of the superintendent, or some member of the patrol designated by him.**]** The superintendent**[**, with the consent and approval of the commission,**]** shall employ such clerical force, radio operators, and other subordinates, and shall provide such office equipment, stationery, postage supplies, **[**telegraph**]** **communication** and telephone facilities as he **or she** shall deem necessary **for general headquarters located at Jefferson City, Missouri**, and shall also provide offices, equipment, stationery, postage, clerical force, **communication, telephone,** and other subordinates for the headquarters of each **[**district**]** **troop or division** of the patrol. The state highway patrol **[**radio network**]** **communications division** shall be under the control of and at the service of the superintendent for such regular and emergency **[**bulletins**]** **communications,** and service as the superintendent may require **[**from time to time**]**.

43.220. NO AUTHORITY TO EXCEED DUTIES AUTHORIZED IN THIS CHAPTER. — Neither the governor**[**, the commission,**]** nor the superintendent shall have any power, right or authority to command, order or direct any member of the patrol to perform any duty or service not authorized **[**by this chapter**]** **under state statute**.

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**]** **nine** 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**] . In each year beginning on or after January 1, 2010, the superintendent may increase the fee paid by requesting entities by an amount not to exceed one dollar per year, however, under no circumstance shall the fee paid by requesting entities exceed fifteen dollars per request.**

2. 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 twenty dollars per request for criminal history record information based on a fingerprint search**[**. Each such**] , unless the request is required under the provisions of subdivision (6) of section 210.481, RSMo, section 210.487, RSMo, or section 571.101, RSMo, in which case, the fee shall be fourteen dollars.**

3. A request **made under subsections 1 and 2 of this section** 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.

43.546. FINGERPRINTING OF APPLICANTS FOR BACKGROUND CHECKS PERMITTED BY STATE AGENCIES, BOARDS, AND COMMISSIONS, WHEN — PROCEDURE. — 1. Any state agency, board, or commission may require the fingerprinting of applicants in specified occupations or appointments within the state agency, board, or commission for the purpose of positive identification and receiving criminal history record information when determining an applicant's ability or fitness to serve in such occupation or appointment.

2. In order to facilitate the criminal background check under subsection 1 of this section on any person employed or appointed by a state agency, board, or commission, and in accordance with section 43.543, the applicant or employee shall submit a set of fingerprints collected under the standards determined by the Missouri highway patrol. The fingerprints and accompanying fees, unless otherwise arranged, shall be forwarded to the highway patrol to be used to search the state criminal history repository and the fingerprints shall be forwarded to the Federal Bureau of Investigations for a national criminal background check. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the state agency making the request.

43.547. GUBERNATORIAL APPOINTEES, FINGERPRINT BACKGROUND CHECKS REQUIRED — PROCEDURE. — 1. The Missouri state highway patrol, at the direction of the governor, shall conduct name or fingerprint background investigations of gubernatorial appointees. The governor's directive shall state whether the background investigation shall be a name background investigation or a fingerprint background investigation. In addition, the patrol may, at the governor's direction, conduct other appropriate investigations to determine if an applicant or appointee is in compliance with section 105.262, RSMo, and other necessary inquiries to determine the person's suitability for positions of public trust.

2. In order to facilitate the fingerprint background investigation under subsection 1 of this section, and in accordance with the provisions of section 43.543, the appointee shall

submit a set of fingerprints collected under the standards determined by the Missouri highway patrol. The fingerprints and accompanying fees, unless otherwise arranged, shall be forwarded to the highway patrol to be used to search the state criminal history repository and the fingerprints shall be forwarded to the Federal Bureau of Investigations for a national criminal background check. Any background investigation conducted at the direction of the governor under subsection 1 of this section may include criminal history record information and other source information obtained by the highway patrol.

84.120. POLICE FORCE MEMBERS — QUALIFICATIONS — REMOVAL — DELEGATION OF JURISDICTION OF HEARING OFFICERS, FUNCTIONS (ST. LOUIS). — 1. No person shall be appointed or employed as policeman, turnkey, or officer of police who shall have been convicted of, or against whom any indictment may be pending, for any offense, the punishment of which may be confinement in the penitentiary; nor shall any person be so appointed who is not of good character, or who is not a citizen of the United States, or who is not able to read and write the English language, or who does not possess ordinary physical strength and courage. The patrolmen and turnkeys hereafter appointed shall serve while they shall faithfully perform their duties and possess mental and physical ability and be subject to removal only for cause after a hearing by the boards, who are hereby invested with the **[**exclusive**]** jurisdiction in the premises.

2. The board shall have the sole discretion whether to delegate portions of its jurisdiction to hearing officers. The board shall retain final and ultimate authority over such matters and over the person to whom the delegation may be made. In any hearing before the board under this section, the member involved may make application to the board to waive a hearing before the board and request that a hearing be held before a hearing officer.

3. Nothing in this section or chapter shall be construed to prohibit the board of police commissioners from delegating any task related to disciplinary matters, disciplinary hearings, or any other hearing or proceeding which could otherwise be heard by the board or concerning any determination related to whether an officer is able to perform the necessary functions of the position. Tasks related to the preceding matter may be delegated by the board to a hearing officer under the provisions of subsection 4 of this section.

4. (1) The hearing officer to whom a delegation has been made by the board may, at the sole discretion of the board, perform certain functions, including but not limited to the following:

(a) Presiding over a disciplinary matter from its inception through to the final hearing;

(b) Preparing a report to the board of police commissioners; and

(c) Making recommendations to the board of police commissioners as to the allegations and the appropriateness of the recommended discipline.

(2) The board shall promulgate rules, which may be changed from time to time as determined by the board, and shall make such rules known to the hearing officer or others.

(3) The board shall at all times retain the authority to render the final decision after a review of the relevant documents, evidence, transcripts, videotaped testimony, or report prepared by the hearing officer.

5. Hearing officers shall be selected in the following manner:

(1) The board shall establish a panel of not less than five persons, all who are to be licensed attorneys in good standing with the Missouri Bar. The composition of the panel may change from time to time at the board's discretion;

(2) From the panel, the relevant member or officer and a police department representative shall alternatively and independently strike names from the list with the last remaining name being the designated hearing officer. The board shall establish a process

to be utilized for each hearing which will determine which party makes the first strike and the process may change from time to time;

(3) After the hearing officer is chosen and presides over a matter, such hearing officer shall become ineligible until all hearing officers listed have been utilized, at which time the list shall renew, subject to officers' availability.

84.170. POLICE FORCE VACANCIES AND PROMOTIONS — RULES OF BOARD (ST. LOUIS). — 1. When any vacancy shall take place in any grade of officers, it shall be filled from the next lowest grade; provided, however, that probationary patrolmen shall serve at least six months as such before being promoted to the rank of patrolman; patrolmen shall serve at least three years as such before being promoted to the rank of sergeant; sergeants shall serve at least one year as such before being promoted to the rank of lieutenant; lieutenants shall serve at least one year as such before being promoted to the rank of captain; and in no case shall the chief or assistant chief be selected from men not members of the force or below the grade of captain. Patrolmen shall serve at least three years as such before promotion to the rank of detective; the inspector shall be taken from men in the rank not below the grade of lieutenant.

2. The boards of police are hereby authorized to make all such rules and regulations, not inconsistent with sections 84.010 to 84.340, or other laws of the state, as they may judge necessary, for the appointment, employment, uniforming, discipline, trial and government of the police. The said boards shall also have power to require of any officer or policeman bond with sureties when they may consider it demanded by the public interests. All lawful rules and regulations of the board shall be obeyed by the police force on pain of dismissal or such lighter punishment, either by suspension, fine, reduction or forfeiture of pay, or otherwise as the boards may adjudge.

3. The authority possessed by the board of police includes, but is not limited to, the authority to delegate portions of its powers authorized in section 84.120, including presiding over a disciplinary hearing, to a hearing officer as determined by the board.

195.503. DEFINITIONS. — As used in sections 195.501 to 195.511, the following terms mean:

(1) "Department", the department of public safety;

(2) "Director", the director of the department of public safety;

(3) "Drug laws", all laws regulating the production, sale, prescribing, manufacturing, administering, transporting, having in possession, dispensing, distributing, or use of controlled substances, as defined in section 195.010;

(4) "Multijurisdictional enforcement group", or "MEG", a combination of political subdivisions established under sections 573.500 and 573.503, RSMo, section 178.653, RSMo, and section 311.329, RSMo, to [enforce the drug laws of this state] **investigate and enforce computer, Internet-based, narcotics, and drug violations**.

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;

(5) Persons [commissioned and] serving as a reserve [peace] officer **on August 27, 2001,** within a county of the first classification **or a county with a charter form of government and with more than one million inhabitants** on August [28] **27**, 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 **only within such county. For the purposes of this subdivision, the term "reserve officer" shall mean any person who serves in a less than full-time law enforcement capacity, with or without pay and who, without certification, has no power of arrest and who, without certification, must be under the direct and immediate accompaniment of a certified peace officer of the same agency at all times while on duty**; 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.

650.120. GRANTS TO FUND INVESTIGATIONS OF INTERNET SEX CRIMES AGAINST CHILDREN — PANEL, MEMBERSHIP, TERMS — LOCAL MATCHING AMOUNTS — PRIORITIES — TRAINING STANDARDS — INFORMATION SHARING — PANEL RECOMMENDATION — POWER OF ARREST — SUNSET PROVISION. — 1. Subject to appropriation, the department of public safety shall create a program to distribute grants to multijurisdictional Internet cyber crime law enforcement task forces**, multijurisdictional enforcement groups, as defined in section 195.503, RSMo, that are investigating Internet sex crimes against children,** and other law enforcement agencies. **Not more than three percent of the money appropriated may be used by the department to pay the administrative costs of the grant program.** The grants shall be awarded and used to pay the salaries of detectives and computer forensic personnel whose focus is investigating Internet sex crimes against children, including but not limited to enticement of a child, possession or promotion of child pornography, [and to] provide funding for the training of law enforcement personnel**, and purchase necessary equipment, supplies, and services**. The funding for such training may be used to cover the travel expenses of those persons participating.

2. A panel is hereby established in the department of public safety to award grants under this program and shall be comprised of the following members:

(1) The director of the department of public safety, or his or her designee;

(2) Two members shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri Police Chiefs Association;

(3) Two members shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri Sheriffs' Association;

(4) Two members of the state highway patrol shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri State Troopers Association;

(5) One member of the house of representatives who shall be appointed by the speaker of the house of representatives; and

(6) One member of the senate who shall be appointed by the president pro tem.

The panel members who are appointed under subdivisions (2), (3), and (4) of this subsection shall serve a four-year term ending four years from the date of expiration of the term for which his or her predecessor was appointed. However, a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. Such members shall hold office for the term of his or her appointment and until a successor is appointed. The members of the panel shall receive no additional compensation but shall be eligible for reimbursement for mileage directly related to the performance of panel duties.

3. Local matching amounts, which may include new or existing funds or in-kind resources including but not limited to equipment or personnel, are required for multijurisdictional Internet cyber crime law enforcement task forces and other law enforcement agencies to receive grants awarded by the panel. Such amounts shall be determined by the state appropriations process or by the panel.

4. When awarding grants, priority should be given to newly hired detectives and computer forensic personnel.

5. The panel shall establish minimum training standards for detectives and computer forensic personnel participating in the grant program established in subsection 1 of this section.

6. Multijurisdictional Internet cyber crime law enforcement task forces and other law enforcement agencies participating in the grant program established in subsection 1 of this section shall share information and cooperate with the highway patrol and with existing Internet Crimes Against Children task force programs.

7. The panel may make recommendations to the general assembly regarding the need for additional resources or appropriations.

8. **The power of arrest of any peace officer who is duly authorized as a member of a multijurisdictional Internet cyber crime law enforcement task force shall only be exercised during the time such peace officer is an active member of such task force and only within the scope of the investigation on which the task force is working. Notwithstanding other provisions of law to the contrary, such task force officer shall have the power of arrest, as limited in this subsection, anywhere in the state and shall provide prior notification to the chief of police of a municipality or the sheriff of the county in which the arrest is to take place. If exigent circumstances exist, such arrest may be made and notification shall be made to the chief of police or sheriff as appropriate and as soon as practical. The chief of police or sheriff may elect to work with the multijurisdictional Internet cyber crime law enforcement task force at his or her option when such task force is operating within the jurisdiction of such chief of police or sheriff.**

9. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall sunset automatically six years after June 5, 2006, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall sunset automatically twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

[86.365. SPECIAL ADVISORS, QUALIFICATIONS, COMPENSATION. — Any person who served as a policeman for a period of thirty years and who terminated employment and actually retired prior to October 1, 1957, in the police department of any city not within a county, under the provisions of this chapter, shall, upon application to the police department of that city, be employed by the department as a special advisor and supervisor in connection with city police problems. Any person so employed shall perform such duties as the chief of police directs and shall receive a salary of one hundred dollars per month, payable out of the department budget pursuant to appropriations for the purpose; except that the payment to the retired person for such services, together with the retirement benefits such retired person receives under this chapter, shall not exceed two hundred dollars per month. The employment provided for by this section shall in no way affect any person's eligibility for retirement benefits under any provision of this chapter.**]**

SECTION B. EMERGENCY CLAUSE. — Because of the need to protect the citizens of this state, the repeal and reenactment of sections 195.503 and 650.120 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 195.503 and 650.120 of this act shall be in full force and effect upon its passage and approval.

Approved May 31, 2007

HB 56 [HB 56]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Designates a memorial bridge and several memorial highways

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

SECTION

A. Enacting clause.
227.364. John Oliver Jr. Parkway designated for a portion of Missouri Route 74/34 in Cape Girardeau County.
227.376. Sergeant Carl Dewayne Graham Jr. Memorial Highway designated for a portion of U.S. Highway 60 in Stoddard County.
227.383. Deputy Christopher Lee Castetter Memorial Highway designated for a portion of Highway 112 in Barry County.
227.384. Officer Stephen Strehl Memorial Highway designated for a portion of State Route M in Barnhart.
227.385. 1922 Sulphur Springs Rail Disaster Memorial Highway designated for a portion of U.S. Highway 61/67 in Barnhart.
227.388. DeSoto Railroad Employees Memorial Highway designated for a portion of Highway 110 in Jefferson County.
227.390. Officer Michael Barwick Memorial Highway designated for a portion of I-44 in St. Louis City.
227.392. Christopher S. Bond Bridge designated for an I-29/35 bridge in Kansas City.
1. Larry Stewart Secret Santa Memorial Highway designated for a portion of State Route 7 in Blue Springs.

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 nine new sections, to be known as sections 227.364, 227.376, 227.383, 227.384, 227.385, 227.388, 227.390, 227.392, and Section 1 to read as follows:

227.364. JOHN OLIVER JR. PARKWAY DESIGNATED FOR A PORTION OF MISSOURI ROUTE 74/34 IN CAPE GIRARDEAU COUNTY. — The portion of Missouri Route 74/34 contained in Cape Girardeau County, from the Missouri/Illinois state line west to the intersection of Business Loop 55/U.S. 61/Missouri Route 34, shall be designated as the "John Oliver Jr. Parkway". The provisions of section 227.299 regarding highway designations shall not be applicable to the provisions of this section.

227.376. SERGEANT CARL DEWAYNE GRAHAM JR. MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 60 IN STODDARD COUNTY. — Notwithstanding subsection 8 of section 227.299, the portion of U.S. Highway 60 contained in Stoddard County, from where U.S. Highway 60 and Route ZZ intersect to where U.S. Highway 60 and Missouri Route 25 intersect, shall be designated the "Sergeant Carl Dewayne Graham Jr. Memorial Highway". Costs for such designation shall be paid by the Missouri Troopers' Association.

227.383. DEPUTY CHRISTOPHER LEE CASTETTER MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 112 IN BARRY COUNTY. — The portion of highway 112 from the intersection of highway 76 south to the intersection of highway AA in the 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, shall be designated the "Deputy Christopher Lee Castetter Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

227.384. OFFICER STEPHEN STREHL MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF STATE ROUTE M IN BARNHART. — The portion of State Route M between Old Lemay Ferry Road and Moss Hollow Road in the census designated place with more than six thousand one hundred but fewer than six thousand three hundred inhabitants shall be designated the "Officer Stephen Strehl Memorial Highway". Costs for such designation shall be paid by private donations.

227.385. 1922 SULPHUR SPRINGS RAIL DISASTER MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 61/67 IN BARNHART. — The portion of U.S. Highway 61/67 between Wolf Hollow Road and State Route M in the census designated place with more than six thousand one hundred but fewer than six thousand three hundred inhabitants shall be designated the "1922 Sulphur Springs Rail Disaster Memorial Highway". Costs for such designation shall be paid by private donation.

227.388. DESOTO RAILROAD EMPLOYEES MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 110 IN JEFFERSON COUNTY. — The portion of highway 110 from U.S. highway 67 to highway 21 within the county of the first classification with more than one hundred ninety-eight thousand but fewer than one hundred ninety-nine thousand two hundred inhabitants shall be designated the "DeSoto Railroad Employees Memorial Highway". Costs for such designation shall be paid by private donations.

227.390. OFFICER MICHAEL BARWICK MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF I-44 IN ST. LOUIS CITY. — The portion of Interstate 44 from the city limits of the city not within a county east to the intersection of Kingshighway shall be designated

the "Officer Michael Barwick Memorial Highway". Costs for such designation shall be paid by private donation.

227.392. CHRISTOPHER S. BOND BRIDGE DESIGNATED FOR AN I-29/35 BRIDGE IN KANSAS CITY. — The new bridge carrying Interstate 29/35 over the Missouri River in the home rule city with more than four hundred thousand inhabitants and located in more than one county shall be designated the "Christopher S. Bond Bridge". Costs for such designation shall be paid by private donation.

SECTION 1. LARRY STEWART SECRET SANTA MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF STATE ROUTE 7 IN BLUE SPRINGS. — The portion of State Route 7 from the south edge of the city limits of a home rule city with more than forty-eight thousand but fewer than forty-nine thousand inhabitants heading south to the intersection of US Highway 50 shall be designated the "Larry Stewart Secret Santa Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donation.

Approved June 19, 2007

HB 62 [HB 62]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Designates the Department of Agriculture's building at 1616 Missouri Boulevard in Jefferson City as the "George Washington Carver Building"

AN ACT to amend chapter 8, RSMo, by adding thereto one new section relating to designation of a certain state building.

SECTION
A. Enacting clause.
8.912. Designates the department of agriculture building as the "George Washington Carver Building".

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 8.912, to read as follows:

8.912. DESIGNATES THE DEPARTMENT OF AGRICULTURE BUILDING AS THE "GEORGE WASHINGTON CARVER BUILDING". — The state office building for the department of agriculture located at 1616 Missouri Boulevard in Jefferson City shall be designated as the "George Washington Carver Building" in honor of George Washington Carver who was a trailblazer in the field of agricultural science, technology, and philanthropy.

Approved July 13, 2007

HB 75 [HB 75]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Director of the Department of Natural Resources to enter into agreements with private, not-for-profit organizations to provide services for state parks

AN ACT to repeal section 253.095, RSMo, and to enact in lieu thereof one new section relating to park services.

SECTION
A. Enacting clause.
253.095. Interpretive or education services, agreements entered into with not-for-profit organizations for state parks, space provided — net proceeds retained by organization.

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

SECTION A. ENACTING CLAUSE. — Section 253.095, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 253.095, to read as follows:

253.095. INTERPRETIVE OR EDUCATION SERVICES, AGREEMENTS ENTERED INTO WITH NOT-FOR-PROFIT ORGANIZATIONS FOR STATE PARKS, SPACE PROVIDED — NET PROCEEDS RETAINED BY ORGANIZATION. — In order to further the interpretive or educational functions of Missouri state parks, the director of the Missouri department of natural resources is authorized to enter into agreements with private, not-for-profit organizations that are organized **[**solely**]** to provide cooperative, interpretive**, facility enhancement** or educational services to any **[**one**]** Missouri state park. The director may provide state park facility space **and incidental staff support** to such an organization under a cooperative agreement**, which reimburses the department for the actual costs of such space and incidental staff support and clearly demonstrates the fiscal, interpretive, educational, and facility enhancement benefits to the state**. Net proceeds received from the sale of publications or other materials **and services** provided by an organization pursuant to such an agreement entered into under this section shall be retained by the organization for use in the interpretive or educational services provided **[**to such park that the organization is designated to serve**] in state parks**.

Approved July 13, 2007

HB 98 [HCS HB 98]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes each area agency on aging to establish a volunteer program for the transportation of the elderly to scheduled, health care-related appointments

AN ACT to amend chapter 660, RSMo, by adding thereto one new section relating to transportation services for the elderly.

SECTION
A. Enacting clause.
660.725. Transportation of elderly persons for health care-related services — program authorized in each area agency on aging — sunset provision.

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

SECTION A. ENACTING CLAUSE. — Chapter 660, RSMo, is amended by adding thereto one new section, to be known as section 660.725, to read as follows:

660.725. TRANSPORTATION OF ELDERLY PERSONS FOR HEALTH CARE-RELATED SERVICES — PROGRAM AUTHORIZED IN EACH AREA AGENCY ON AGING — SUNSET PROVISION. — 1. Each area agency on aging may establish a program that provides for volunteers to provide transportation within the geographic area of the agency to elderly persons to health care facilities for scheduled appointments or for other health care-related purposes.

2. Such volunteers shall utilize their own vehicles and shall be reimbursed for miles driven to provide transportation for elderly persons under the program. The area agency on aging may pay each volunteer a mileage allowance or reimbursement at the same rate as for state employees under section 33.095, RSMo.

3. The area agency on aging may encourage passengers under the program to reimburse the agency for all or part of the cost of providing such transportation services.

4. Any volunteer seeking a mileage allowance or reimbursement shall submit a monthly report to the agency detailing the transportation services provided, the dates of such services, and the miles driven. The agency may request further information from the volunteer on the monthly report.

5. Subject to appropriations, each area agency on aging may request funding of up to one thousand dollars annually per county for each county within the agency's jurisdiction from the department of health and senior services to assist with the costs associated with administering this program.

6. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

(1) Any new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under this section is sunset.

Approved July 13, 2007

HB 134 [SS HB 134]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Extends the expiration date for equipment grants for engineering programs at the University of Missouri to June 30, 2017

AN ACT to repeal section 172.287, RSMo, and to enact in lieu thereof one new section relating to equipment grants for engineering programs.

SECTION

A. Enacting clause.

172.287. Engineering colleges, program of grants established — purposes — amount insufficient for funding all grants reduced pro rata — expires, when.

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

SECTION A. ENACTING CLAUSE. — Section 172.287, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 172.287, to read as follows:

172.287. ENGINEERING COLLEGES, PROGRAM OF GRANTS ESTABLISHED — PURPOSES — AMOUNT INSUFFICIENT FOR FUNDING ALL GRANTS REDUCED PRO RATA — EXPIRES, WHEN. — 1. The University of Missouri shall annually request an appropriation under capital improvements, subject to availability of funds, for a program of grants established for the engineering colleges of the University of Missouri for the purpose of assisting such colleges in the purchase of teaching and research laboratory equipment exclusive of laboratory or classroom furniture. The amount granted for each engineering college may not exceed the lesser of an amount equal to one thousand two hundred dollars per each such bachelor's degree awarded in the previous fiscal year in all engineering programs currently accredited by the accreditation board for engineering and technology, or the dollar value of new funds for equipment purchase which such colleges may obtain from sources other than state appropriations for laboratory equipment.

2. For purposes of this section, the fair market value of in-kind contributions of laboratory equipment to the colleges may be included as funds for equipment purchase from sources other than state appropriations. In the event that new funds for laboratory equipment purchase obtained by any college of engineering from such nonstate sources exceed the amount necessary to reach the maximum dollar limits herein specified, such excess amounts will be carried over to the following fiscal year and considered the same as that year's new equipment funds from nonstate sources.

3. In the event that the appropriations for this grant program are insufficient to fund all grants approved for a given fiscal year, all such grants shall be reduced pro rata as necessary.

4. The provisions of this section shall terminate on June 30, **[**2007**]** **2017**.

Approved June 13, 2007

HB 181 [HCS HB 181]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the captioning of electronic video instructional materials

AN ACT to amend chapter 170, RSMo, by adding thereto one new section relating to captioning of electronic video instructional materials.

SECTION

A. Enacting clause.

170.135. Captioning of electronic video instructional materials — definitions — failure to comply, civil penalty.

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

SECTION A. ENACTING CLAUSE. — Chapter 170, RSMo, is amended by adding thereto one new section, to be known as section 170.135, to read as follows:

170.135. CAPTIONING OF ELECTRONIC VIDEO INSTRUCTIONAL MATERIALS — DEFINITIONS — FAILURE TO COMPLY, CIVIL PENALTY. — 1. As used in this section, the following terms mean:

(1) "Captions", when the audio portion of video programming is displayed as text superimposed over the video;

(2) "Closed captions", captions that may be turned on or off by the viewer;

(3) "Electronic video instructional materials", materials designed, marketed, and sold for use in the instructional programs of educational institutions in Missouri, including but not limited to materials on videotape, CD-ROM, digital video disc (DVD), and film;

(4) "Open captions", captions that are always viewable and cannot be turned on and off by the viewer.

2. Beginning January 1, 2008, every publisher or manufacturer of electronic video instructional materials offered for adoption or sale in the state shall supply such materials with open captions or closed captions, except for the following:

(1) Video products or portions of video products for which the publisher does not have the rights to add captions; and

(2) Video products or portions of video products for which the user does not receive a physical copy of the product, but rather the product is otherwise broadcast into the instructional environment through television programming, teleconferences, and/or products distributed over the Internet or World Wide Web.

3. If the publisher or manufacturer fails to comply with the requirements of this section, the publisher or manufacturer shall be liable to the entity that purchased the electronic video instructional materials in the amount of three times the amount paid by the purchasing entity to have captions placed on the materials.

4. In order to ensure the effective implementation of subsection 3 of this section, a liability claim may be made on behalf of the purchasing entity by either the individual purchaser; a school, school district, college, or university that employs the individual purchaser; the Missouri department of elementary and secondary education; or the Missouri department of higher education.

Approved June 21, 2007

HB 182 [HCS HB 182]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Outside the Hospital Do-Not-Resuscitate Act to permit the execution of do-not-resuscitate orders for use by emergency medical providers for patients receiving treatment outside a hospital

AN ACT to amend chapter 190, RSMo, by adding thereto eight new sections relating to outside the hospital do-not-resuscitate orders, with penalty provisions.

SECTION

A. Enacting clause.
190.600. Citation of act — definitions.
190.603. Outside the hospital do-not-resuscitate order may be executed, when — maintained in medical records — transfers with patient.
190.606. Immunity from liability, what persons and entities.
190.609. Order effective, when — limitations of order.
190.612. Emergency medical services personnel to comply with order, when — physician to transfer patient, when.
190.615. Death of a patient, not suicide or homicide — effect of order on life insurance — order does not authorize mercy killing or euthanasia.
190.618. Rules — rulemaking authority.
190.621. Penalty for concealing or falsifying an order.

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 eight new sections, to be known as sections 190.600, 190.603, 190.606, 190.609, 190.612, 190.615, 190.618, and 190.621, to read as follows:

190.600. CITATION OF ACT — DEFINITIONS. — 1. Sections 190.600 to 190.621 shall be known and may be cited as the "Outside the Hospital Do-Not-Resuscitate Act".

2. As used in sections 190.600 to 190.621, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Attending physician":

(a) A physician licensed under chapter 334, RSMo, selected by or assigned to a patient who has primary responsibility for treatment and care of the patient; or

(b) If more than one physician shares responsibility for the treatment and care of a patient, one such physician who has been designated the attending physician by the patient or the patient's representative shall serve as the attending physician;

(2) "Cardiopulmonary resuscitation" or "CPR", emergency medical treatment administered to a patient in the event of the patient's cardiac or respiratory arrest, and shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of cardiac resuscitation medications, and related procedures;

(3) "Department", the department of health and senior services;

(4) "Emergency medical services personnel", paid or volunteer firefighters, law enforcement officers, first responders, emergency medical technicians, or other emergency service personnel acting within the ordinary course and scope of their professions, but excluding physicians;

(5) "Health care facility", any institution, building, or agency or portion thereof, private or public, excluding federal facilities and hospitals, whether organized for profit or not, used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. Health care facility includes but is not limited to ambulatory surgical facilities, health maintenance organizations, home health agencies, hospices, infirmaries, renal dialysis centers, long-term care facilities licensed under sections 198.003 to 198.186, RSMo, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, and residential treatment facilities;

(6) "Hospital", a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not less than twenty-four consecutive hours in any week of three or more nonrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions; or a place devoted primarily to provide for not less than twenty-four consecutive hours in any week medical or nursing care for three or more nonrelated individuals. Hospital does not include any long-term care facility licensed under sections 198.003 to 198.186, RSMo;

(7) "Outside the hospital do-not-resuscitate identification" or "outside the hospital DNR identification", a standardized identification card, bracelet, or necklace of a single color, form, and design as described by rule of the department that signifies that the patient's attending physician has issued an outside the hospital do-not-resuscitate order for the patient and has documented the grounds for the order in the patient's medical file;

(8) "Outside the hospital do-not-resuscitate order" or "outside the hospital DNR order", a written physician's order signed by the patient and the attending physician, or the patient's representative and the attending physician, in a form promulgated by rule of the department which authorizes emergency medical services personnel to withhold or withdraw cardiopulmonary resuscitation from the patient in the event of cardiac or respiratory arrest;

(9) "Outside the hospital do-not-resuscitate protocol" or "outside the hospital DNR protocol", a standardized method or procedure promulgated by rule of the department for the withholding or withdrawal of cardiopulmonary resuscitation by emergency medical services personnel from a patient in the event of cardiac or respiratory arrest;

(10) "Patient", a person eighteen years of age or older who is not incapacitated, as defined in section 475.010, RSMo, and who is otherwise competent to give informed consent to an outside the hospital do-not-resuscitate order at the time such order is issued, and who, with his or her attending physician, has executed an outside the hospital do-not-resuscitate order under sections 190.600 to 190.621. A person who has a patient's representative shall also be a patient for the purposes of sections 190.600 to 190.621, if the person or the person's patient's representative has executed an outside the hospital do-not-resuscitate order under sections 190.600 to 190.621;

(11) "Patient's representative":

(a) An attorney in fact designated in a durable power of attorney for health care for a patient determined to be incapacitated under sections 404.800 to 404.872, RSMo; or

(b) A guardian or limited guardian appointed under chapter 475, RSMo, to have responsibility for an incapacitated patient.

190.603. OUTSIDE THE HOSPITAL DO-NOT-RESUSCITATE ORDER MAY BE EXECUTED, WHEN — MAINTAINED IN MEDICAL RECORDS — TRANSFERS WITH PATIENT. — 1. A patient or patient's representative and the patient's attending physician may execute an outside the hospital do-not-resuscitate order. An outside the hospital do-not-resuscitate order shall not be effective unless it is executed by the patient or patient's representative and the patient's attending physician, and it is in the form promulgated by rule of the department.

2. If an outside the hospital do-not-resuscitate order has been executed, it shall be maintained as the first page of a patient's medical record in a health care facility unless otherwise specified in the health care facility's policies and procedures.

3. An outside the hospital do-not-resuscitate order shall be transferred with the patient when the patient is transferred from one health care facility to another health care facility. If the patient is transferred outside of a hospital, the outside the hospital DNR form shall be provided to any other facility, person, or agency responsible for the medical care of the patient or to the patient or patient's representative.

190.606. IMMUNITY FROM LIABILITY, WHAT PERSONS AND ENTITIES. — The following persons and entities shall not be subject to civil, criminal, or administrative liability and are not guilty of unprofessional conduct for the following acts or omissions that follow discovery of an outside the hospital do-not-resuscitate identification upon a patient; provided that the acts or omissions are done in good faith and in accordance with the provisions of sections 190.600 to 190.621 and the provisions of an outside the hospital do-not-resuscitate order executed under sections 190.600 to 190.621:

(1) Physicians, persons under the direction or authorization of a physician, emergency medical services personnel, or health care facilities that cause or participate in the withholding or withdrawal of cardiopulmonary resuscitation from such patient; and

(2) Physicians, persons under the direction or authorization of a physician, emergency medical services personnel, or health care facilities that provide cardiopulmonary resuscitation to such patient under an oral or written request communicated to them by the patient or the patient's representative.

190.609. ORDER EFFECTIVE, WHEN — LIMITATIONS OF ORDER. — 1. An outside the hospital do-not-resuscitate order shall only be effective when the patient has not been admitted to or is not being treated within a hospital.

2. An outside the hospital do-not-resuscitate order and the outside the hospital do-not-resuscitate protocol shall not authorize the withholding or withdrawing of other medical interventions, such as intravenous fluids, oxygen, or therapies other than cardiopulmonary resuscitation. Outside the hospital do-not-resuscitate orders and the outside the hospital do-not-resuscitate protocol shall not authorize the withholding or withdrawing of therapies deemed necessary to provide comfort care or alleviate pain. Any authorization for withholding or withdrawing interventions or therapies that is inconsistent with sections 190.600 to 190.621 and is found or included in any outside the hospital do-not-resuscitate order or in the outside the hospital do-not-resuscitate protocol shall be null, void, and of no effect. Nothing in this section shall prejudice any other lawful directives concerning such medical interventions and therapies.

3. An outside the hospital do-not-resuscitate order shall not be effective during such time as the patient is pregnant; provided, however, that physicians, persons under the direction or authorization of a physician, emergency medical services personnel, and health care facilities shall not be subject to civil, criminal, or administrative liability and are not guilty of unprofessional conduct if, while acting in accordance with the provisions of sections 190.600 to 190.621 and the provisions of an outside the hospital do-not-resuscitate order executed under sections 190.600 to 190.621, such persons and entities:

(1) Comply with an outside the hospital do-not-resuscitate order and withdraw or withhold cardiopulmonary resuscitation from a pregnant patient while believing in good faith that the patient is not pregnant; or

(2) Despite the presence of an outside the hospital do-not-resuscitate order, provide cardiopulmonary resuscitation to a nonpregnant patient while believing in good faith that the patient is pregnant.

190.612. EMERGENCY MEDICAL SERVICES PERSONNEL TO COMPLY WITH ORDER, WHEN — PHYSICIAN TO TRANSFER PATIENT, WHEN. — 1. Emergency medical services personnel are authorized to comply with the outside the hospital do-not-resuscitate protocol when presented with an outside the hospital do-not-resuscitate identification or an outside the hospital do-not-resuscitate order. However, emergency medical services personnel shall not comply with an outside the hospital do-not-resuscitate order or the outside the hospital do-not-resuscitate protocol when the patient or patient's representative expresses to such personnel in any manner, before or after the onset of a cardiac or respiratory arrest, the desire to be resuscitated.

2. If a physician or a health care facility other than a hospital admits or receives a patient with an outside the hospital do-not-resuscitate identification or an outside the hospital do-not-resuscitate order, and the patient or patient's representative has not expressed or does not express to the physician or health care facility the desire to be resuscitated, and the physician or health care facility is unwilling or unable to comply with the outside the hospital do-not-resuscitate order, the physician or health care facility shall take all reasonable steps to transfer the patient to another physician or health care facility where the outside the hospital do-not-resuscitate order will be complied with.

190.615. DEATH OF A PATIENT, NOT SUICIDE OR HOMICIDE — EFFECT OF ORDER ON LIFE INSURANCE — ORDER DOES NOT AUTHORIZE MERCY KILLING OR EUTHANASIA. — 1. A patient's death resulting from the withholding or withdrawal in good faith of cardiopulmonary resuscitation under an outside the hospital do-not-resuscitate order is not, for any purpose, a suicide or homicide.

2. The possession of an outside the hospital do-not-resuscitate identification or execution of an outside the hospital do-not-resuscitate order does not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor does it modify the terms of an existing policy of life insurance. Notwithstanding any term of a policy to the

contrary, a policy of life insurance is not legally impaired or invalidated in any manner by the withholding or withdrawal of cardiopulmonary resuscitation from an insured patient possessing an outside the hospital do-not-resuscitate identification or outside the hospital do-not-resuscitate order.

3. A physician, health care facility, or other health care provider or a health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital plan shall not require a patient to possess an outside the hospital do-not-resuscitate identification or execute an out of hospital do-not-resuscitate order as a condition for being insured for or receiving health care services.

4. Sections 190.600 to 190.621 do not prejudice any right that a patient has to effect the obtaining, withholding, or withdrawal of medical care in any lawful manner apart from sections 190.600 to 190.621. In that respect, the rights of patients authorized under sections 190.600 to 190.621 are cumulative.

5. The provisions of sections 190.600 to 190.621 shall not be construed to condone, authorize, or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act or omission to shorten or end life.

190.618. RULES — RULEMAKING AUTHORITY. — 1. By June 30, 2008, the department shall promulgate rules relating to the outside the hospital do-not-resuscitate protocol, the outside the hospital do-not-resuscitate identification, and the outside the hospital do-not-resuscitate forms under sections 190.600 to 190.621.

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, 2007, shall be invalid and void.

190.621. PENALTY FOR CONCEALING OR FALSIFYING AN ORDER. — 1. Any person who knowingly conceals, cancels, defaces, or obliterates the outside the hospital do-not-resuscitate order or the outside the hospital do-not-resuscitate identification of another person without the consent of the other person, or who knowingly falsifies or forges a revocation of the outside the hospital do-not-resuscitate order or the outside the hospital do-not-resuscitate identification of another person, is guilty of a class A misdemeanor.

2. Any person who knowingly executes, falsifies, or forges an outside the hospital do-not-resuscitate order or an outside the hospital do-not-resuscitate identification of another person without the consent of the other person, or who knowingly conceals or withholds personal knowledge of a revocation of an outside the hospital do-not-resuscitate order or an outside the hospital do-not-resuscitate identification of another person, is guilty of a class D felony.

Approved July 13, 2007

HB 184 [HCS HB 184]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Children's Services Protection Act requiring that community children's services funds be reimbursed for the sales tax revenue diverted to certain tax increment financing projects

AN ACT to amend chapter 67, RSMo, by adding thereto one new section relating to sales tax affecting certain taxing districts.

SECTION
A. Enacting clause.
67.113. Short title — children's services fund reimbursement.

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

SECTION A. ENACTING CLAUSE. — Chapter 67, RSMo, is amended by adding thereto one new section, to be known as section 67.113, to read as follows:

67.113. SHORT TITLE — CHILDREN'S SERVICES FUND REIMBURSEMENT. — 1. This section shall be known and may be cited as "The Children's Services Protection Act".

2. Any city or county which has levied the sales tax under section 67.1775 to provide services for children in need shall reimburse the community children's services fund in an amount equal to the portion of revenue from the tax that is used for or diverted to any redevelopment plan or project approved or adopted after August 28, 2007, in any tax increment financing district in any county in this state.

Approved July 5, 2007

HB 205 [SS HB 205]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding sales and transient guest taxes; the expiration date of theTourism Supplemental Revenue Fund; and the establishment of theater, cultural arts, and entertainment districts

AN ACT to repeal sections 67.1360, 67.2500, 67.2510, 89.010, 89.400, 94.870, 94.875, and 620.467, RSMo, and section 67.2505 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill nos. 795, 972, 1128 & 1161 merged with house substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, second regular session, and section 67.2505, as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 833 merged with house committee substitute for senate substitute for senate bill no. 732, ninety-second general assembly, second regular session, and to enact in lieu thereof ten new sections relating to the promotion of tourism.

SECTION

A. Enacting clause.
67.997. Senior services and youth program sales tax — ballot language — trust fund created, use of moneys (Perry County).
67.1360. Transient guests to pay tax for funding the promotion of tourism, certain cities and counties, vote required.
67.2500. Establishment of a district, where — definitions.
67.2505. Purpose of district — name — size — subdistricts permitted — procedure for establishment of a district.
67.2505. Formation of a district, name of, size — subdistricts authorized — procedure for establishing a district.
67.2510. Alternative procedure for establishment of a district.
89.010. Applicability of law — conflict with zoning provisions of another political subdivision, which to previal.
89.400. Commission to make recommendations to council on plats, when — conflict with zoning provisions of another political subdivsion,, which to prevail.
94.870. Tourism tax on transient guests, definitions — authority to impose tax, rate — exception.
94.875. Tourism tax trust fund established, purpose — taxes to be deposited in fund — distribution — election required to impose tax.
620.467. Division of tourism supplemental revenue fund created — use of fund — lapse to general revenue prohibited — funding — effective and expiration dates.

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

SECTION A. ENACTING CLAUSE. — Sections 67.1360, 67.2500, 67.2510, 89.010, 89.400, 94.870, 94.875, and 620.467, RSMo, and section 67.2505 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill nos. 795, 972, 1128 & 1161 merged with house substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, second regular session, and section 67.2505, as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 833 merged with house committee substitute for senate substitute for senate bill no. 732, ninety-second general assembly, second regular session, are repealed and ten new sections enacted in lieu thereof, to be known as sections 67.997, 67.1360, 67.2500, 67.2505, 67.2510, 89.010, 89.400, 94.870, 94.875, and 620.467, to read as follows:

67.997. SENIOR SERVICES AND YOUTH PROGRAM SALES TAX — BALLOT LANGUAGE — TRUST FUND CREATED, USE OF MONEYS (PERRY COUNTY). — 1. The governing body of any county of the third classification without a township form of government and with more than eighteen thousand one hundred but fewer than eighteen thousand two hundred inhabitants may impose, by order or ordinance, a sales tax on all retail sales made within the county which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not exceed one-fourth of one percent, and shall be imposed solely for the purpose of funding senior services and youth programs provided by the county. One-half of all revenue collected under this section, less one-half the cost of collection shall be used solely to fund any service or activity deemed necessary by the senior service tax commission established in this section, and one-half of all revenue collected under this section, less one-half the cost of collection shall be used solely to fund all youth programs administered by an existing county community task force. 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 order or ordinance shall not become effective unless the governing body of the county submits to the voters residing within the county at a state general, primary, or special election a proposal to authorize the governing body of the county to impose a tax under this section.

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 county) impose a sales tax at a rate of ..... (insert rate of percent) percent, with half of the revenue from the tax, less one-half the cost of collection, to be used solely to fund senior services provided by the county and half of the

revenue from the tax, less one-half the cost of collection, to be used solely to fund youth programs provided by 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 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 the approval of the tax or notification to the department of revenue administered by 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.

3. On or after the effective date of any tax authorized under this section, the county which imposed the tax shall enter into an agreement with the director of the department of revenue for the purpose of collecting the tax authorized in this section. On or after the effective date of the tax the director of revenue shall be responsible for the administration, collection, enforcement, and operation of the tax, and sections 32.085 and 32.087, RSMo, shall apply. All revenue collected under this section by the director of the department of revenue on behalf of any county, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Senior Services and Youth Programs Sales Tax Trust Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the trust fund and credited to the county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such county. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. In order to permit sellers required to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting the tax, or to serve as a levy of the tax, and in order to avoid fractions of pennies, the governing body of the county may authorize the use of a bracket system similar to that authorized in section 144.285, RSMo, and notwithstanding the provisions of that section, this new bracket system shall be used where this tax is imposed and shall apply to all taxable transactions. Beginning with the effective date of the tax, every retailer in the county shall add the sales tax to the sale price, and this tax shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. For purposes of this section, all retail sales shall be deemed to be consummated at the place of business of the retailer.

5. All applicable provisions in sections 144.010 to 144.525, RSMo, governing the state sales tax, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax, and all exemptions granted to agencies of government, organizations, and persons under sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax. The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that, the director of revenue may prescribe a form of exemption

certificate for an exemption from the tax. All discounts allowed the retailer under the state sales tax for the collection of and for payment of taxes are hereby allowed and made applicable to the tax. The penalties for violations provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, are hereby made applicable to violations of this section. If any person is delinquent in the payment of the amount required to be paid under this section, or in the event a determination has been made against the person for taxes and penalty under this section, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525, RSMo.

6. The governing body of any 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 county. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the county) repeal the sales tax imposed at a rate of ..... (insert rate of percent) percent for the purpose of funding senior services and youth programs provided by 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 question by the qualified voters voting thereon 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 and the repeal is approved by a majority of the qualified voters voting on the question.

7. Whenever the governing body of any county that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the 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 of the county a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

8. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the county shall notify the director of the department of revenue of the action at least thirty days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director shall remit the balance in the account to the county and close the account of that county. The director shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

9. Each county imposing the tax authorized in this section shall establish a senior services tax commission to administer the portion of the sales tax revenue dedicated to

providing senior services. Such commission shall consist of seven members appointed by the county commission. The county commission shall determine the qualifications, terms of office, compensation, powers, duties, restrictions, procedures, and all other necessary functions of the commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) Any city of the fourth classification with more than five thousand two hundred but less than five thousand three hundred inhabitants located in a county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants;

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

(25) Any city of the fourth classification with more than two thousand six hundred but less than two thousand seven hundred inhabitants located in any county of the third classification without a township form of government and with more than fifteen thousand three hundred but less than fifteen thousand four hundred inhabitants;

(26) Any county of the third classification without a township form of government and with more than fourteen thousand nine hundred but less than fifteen thousand inhabitants;

(27) Any city of the fourth classification with more than five thousand four hundred but fewer than five thousand five hundred inhabitants and located in more than one county;

(28) Any city of the fourth classification with more than six thousand three hundred but fewer than six thousand five hundred inhabitants and located in more than one county **through the creation of a tourism district which may include, in addition to the geographic area of such city, the area encompassed by the portion of the school district, located within a county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, having an average daily attendance for school year 2005-2006 between one thousand eight hundred and one thousand nine hundred**;

(29) Any city of the fourth classification with more than seven thousand seven hundred but less than seven thousand eight hundred inhabitants located in a county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants;

(30) Any city of the fourth classification with more than two thousand nine hundred but less than three thousand inhabitants located in a county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants; or

(31) Any city of the third classification with more than nine thousand three hundred but less than nine thousand four hundred inhabitants;

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

67.2500. ESTABLISHMENT OF A DISTRICT, WHERE — DEFINITIONS. — 1. **A theater, cultural arts, and entertainment district may be established in the manner provided in section 67.2505 by** the governing body of any **county, city, town, or village that has adopted transect-based zoning under chapter 89, RSMo, any county described in this subsection, or any** city, town, or village that is within **[**a first class county with a charter form of government with a population over two hundred fifty thousand that adjoins a first class county with a charter form of government with a population over nine hundred thousand, or that is within**] such counties:**

(1) Any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants**[**, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2505**] ;**

(2) Any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants;

(3) Any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants;

(4) Any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants;

(5) Any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants;

(6) 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.

2. Sections 67.2500 to 67.2530 shall be known as the "Theater, Cultural Arts, and Entertainment District Act".

3. As used in sections 67.2500 to 67.2530, the following terms mean:

(1) "District", a theater, cultural arts, and entertainment district organized under this section;

(2) "Qualified electors", "qualified voters", or "voters", registered voters residing within the district or subdistrict, or proposed district or subdistrict, who have registered to vote pursuant to chapter 115, RSMo, or, if there are no persons eligible to be registered voters residing in the district or subdistrict, proposed district or subdistrict, property owners, including corporations and other entities, that are owners of real property;

(3) "Registered voters", persons qualified and registered to vote pursuant to chapter 115, RSMo; and

(4) "Subdistrict", a subdivision of a district, but not a separate political subdivision, created for the purposes specified in subsection 5 of section 67.2505.

67.2505. PURPOSE OF DISTRICT — NAME — SIZE — SUBDISTRICTS PERMITTED — PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — 1. A district may be created to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, **infrastructure,** transportation projects, and related facilities in the district.

2. A district is a political subdivision of the state.

3. The name of a district shall consist of a name chosen by the original petitioners, preceding the words "theater, cultural arts, and entertainment district".

4. The district shall include a minimum of **[**fifty**]** **twenty-five** contiguous acres.

5. Subdistricts shall be formed for the purpose of voting upon proposals for the creation of the district or subsequent proposed subdistrict, voting upon the question of imposing a proposed sales tax, and for representation on the board of directors, and for no other purpose.

6. Whenever the creation of a district is desired, one or more registered voters from each subdistrict of the proposed district, or one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district, may file a petition requesting the creation of a district with the governing body of the city, town, or village within which the proposed district is to be established. The petition shall contain the following information:

(1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;

(2) The name of the proposed district;

(3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;

(4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;

(5) A request that the district be established;

(6) A general description of the activities that are planned for the district;

(7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposition of the sales tax be submitted to the qualified voters within the district;

(8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;

(9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;

(10) A signed statement that the petitioners are authorized to submit the petition to the governing body; and

(11) Any other items the petitioners deem appropriate.

7. Upon the filing **and approval** of a petition pursuant to this section, the governing body of any city, town, or village described in this section **[**may**]** **shall** pass a resolution containing the following information:

(1) A description of the boundaries of the proposed district and each subdistrict;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The time frame and manner for the filing of protests;

(4) The proposed sales tax rate to be voted upon within the subdistricts of the proposed district;

(5) The proposed uses for the revenue to be generated by the new sales tax; and

(6) Such other matters as the governing body may deem appropriate.

8. Prior to the governing body certifying the question of the district's creation and imposing a sales tax for approval by the qualified electors, a hearing shall be held as provided by this subsection. The governing body of the municipality approving a resolution as set forth in subsection 7 of this section shall:

(1) Publish notice of the hearing, which shall include the information contained in the resolution cited in subsection 7 of this section, on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, 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;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Consider all protests, which determinations shall be final.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

9. Following the hearing, the governing body of any city, town, or village within which the proposed district will be located may order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the municipal clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing of the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the governing body. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

10. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the governing body may establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax by adopting an ordinance to that effect. The ordinance establishing the district shall contain the following:

(1) The description of the boundaries of the district and each subdistrict;

(2) A statement that a theater, cultural arts, and entertainment district has been established;

(3) A declaration that the district is a political subdivision of the state;

(4) The name of the district;

(5) The date on which the sales tax election in the subdistricts was held, and the result of the election;

(6) The uses for any revenue generated by a sales tax imposed pursuant to this section;

(7) A certification to the newly created district of the election results, including the election concerning the sales tax; and

(8) Such other matters as the governing body deems appropriate.

11. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax before the voters of a proposed subdistrict, and the municipal clerk, or circuit clerk if the district is formed by the circuit court, shall conduct the election. In subsequent elections, the election judges shall certify the election results to the district board of directors.

[67.2505. FORMATION OF A DISTRICT, NAME OF, SIZE — SUBDISTRICTS AUTHORIZED — PROCEDURE FOR ESTABLISHING A DISTRICT. — 1. A district may be created to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district.

2. A district is a political subdivision of the state.

3. The name of a district shall consist of a name chosen by the original petitioners, preceding the words "theater, cultural arts, and entertainment district".

4. The district shall include a minimum of fifty contiguous acres.

5. Subdistricts shall be formed for the purpose of voting upon proposals for the creation of the district or subsequent proposed subdistrict, voting upon the question of imposing a proposed sales tax, and for representation on the board of directors, and for no other purpose.

6. Whenever the creation of a district is desired, one or more registered voters from each subdistrict of the proposed district, or one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district, may file a petition requesting the creation of a district with the governing body of the city, town, or village within which the proposed district is to be established. The petition shall contain the following information:

(1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;

(2) The name of the proposed district;

(3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;

(4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;

(5) A request that the district be established;

(6) A general description of the activities that are planned for the district;

(7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposition of the sales tax be submitted to the qualified voters within the district;

(8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;

(9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;

(10) A signed statement that the petitioners are authorized to submit the petition to the governing body; and

(11) Any other items the petitioners deem appropriate.

7. Upon the filing of a petition pursuant to this section, the governing body of any city, town, or village described in this section may pass a resolution containing the following information:

(1) A description of the boundaries of the proposed district and each subdistrict;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The time frame and manner for the filing of protests;

(4) The proposed sales tax rate to be voted upon within the subdistricts of the proposed district;

(5) The proposed uses for the revenue to be generated by the new sales tax; and

(6) Such other matters as the governing body may deem appropriate.

8. Prior to the governing body certifying the question of the district's creation and imposing a sales tax for approval by the qualified electors, a hearing shall be held as provided by this subsection. The governing body of the municipality approving a resolution as set forth in section 67.2520 shall:

(1) Publish notice of the hearing, which shall include the information contained in the resolution cited in section 67.2520, on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, 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;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Consider all protests, which determinations shall be final.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

9. Following the hearing, the governing body of any city, town, or village within which the proposed district will be located may order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the municipal clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing of the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the governing body. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

10. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the governing body may establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax by adopting an ordinance to that effect. The ordinance establishing the district shall contain the following:

(1) The description of the boundaries of the district and each subdistrict;

(2) A statement that a theater, cultural arts, and entertainment district has been established;

(3) A declaration that the district is a political subdivision of the state;

(4) The name of the district;

(5) The date on which the sales tax election in the subdistricts was held, and the result of the election;

(6) The uses for any revenue generated by a sales tax imposed pursuant to this section;

(7) A certification to the newly created district of the election results, including the election concerning the sales tax; and

(8) Such other matters as the governing body deems appropriate.

11. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax before the voters of a proposed subdistrict, and the municipal clerk, or circuit clerk if the district is formed by the circuit court, shall conduct the election. In subsequent elections, the election judges shall certify the election results to the district board of directors.**]**

67.2510. ALTERNATIVE PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — As a complete alternative to the procedure establishing a district set forth in section 67.2505, **a**

theater, cultural arts, and entertainment district may be established in the manner provided in section 67.2515 by a circuit court with jurisdiction over any **county, city, town, or village that has adopted transect-based zoning under chapter 89, RSMo, any county described in this section, or any** city, town, or village that is within **[**a first class county with a charter form of government with a population over two hundred fifty thousand that adjoins a first class county with a charter form of government with a population over nine hundred thousand, or that is within**] such counties:**

(1) Any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants**[**, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2515**] ;**

(2) Any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants;

(3) Any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants;

(4) Any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants;

(5) Any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants;

(6) 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.

89.010. APPLICABILITY OF LAW — CONFLICT WITH ZONING PROVISIONS OF ANOTHER POLITICAL SUBDIVISION, WHICH TO PREVIAL. — 1. The provisions of sections 89.010 to 89.140 shall apply to all cities, towns and villages in this state.

2. (1) As used in this subsection, "transect-based zoning" means a zoning classification system that prescriptively arranges uses, elements, and environments according to a geographic cross-section that range across a continuum from rural to urban, with the range of environments providing the basis for organizing the components of the constructed world, including buildings, lots, land use, street, and all other physical elements of the human habitat, with the objective of creating sustainable communities and emphasizing bicycle lanes, street connectivity, and sidewalks, and permitting high-density and mixed use development in urban areas.

(2) In the event that any city, town, or village adopts a zoning or subdivision ordinance based on transect-based zoning, and such transect-based zoning provisions conflict with the zoning provisions adopted by code or ordinance of another political subdivision with jurisdiction in such city, town, or village, the transect-based zoning provisions governing street configuration requirements, including number and locations of parking spaces, street, drive lane, and cul-de-sac lengths and widths, turning radii, and improvements within the right-of-way, shall prevail over any other conflicting or more restrictive zoning provisions adopted by code or ordinance of the other political subdivision.

89.400. COMMISSION TO MAKE RECOMMENDATIONS TO COUNCIL ON PLATS, WHEN — CONFLICT WITH ZONING PROVISIONS OF ANOTHER POLITICAL SUBDIVSION,, WHICH TO PREVAIL. — 1. When the planning commission of any municipality adopts a city plan which includes at least a major street plan or progresses in its city planning to the making and adoption of a major street plan, and files a certified copy of the major street plan in the office of the county recorder of the county in which the municipality is located, no plat of a subdivision of land lying within the municipality shall be filed or recorded until it has been submitted to and a report and recommendation thereon made by the commission to the city council and the council has approved the plat as provided by law.

2. (1) As used in this subsection, "transect-based zoning" means a zoning classification system that prescriptively arranges uses, elements, and environments according to a geographic cross-section that range across a continuum from rural to urban, with the range of environments providing the basis for organizing the components of the constructed world, including buildings, lots, land use, street, and all other physical elements of the human habitat, with the objective of creating sustainable communities and emphasizing bicycle lanes, street connectivity, and sidewalks, and permitting high-density and mixed use development in urban areas.

(2) In the event that any city, town, or village adopts a zoning or subdivision ordinance based on transect-based zoning, and such transect-based zoning provisions conflict with the zoning provisions adopted by code or ordinance of another political subdivision with jurisdiction in such city, town, or village, the transect-based zoning provisions governing street configuration requirements, including number and locations of parking spaces, street, drive lane, and cul-de-sac lengths and widths, turning radii, and improvements within the right-of-way, shall prevail over any other conflicting or more restrictive zoning provisions adopted by code or ordinance of the other political subdivision.

94.870. TOURISM TAX ON TRANSIENT GUESTS, DEFINITIONS — AUTHORITY TO IMPOSE TAX, RATE — EXCEPTION. — In addition to all other taxes prescribed by law, the governing body of any municipality of the third classification with a population of at least fifteen thousand but not more than eighteen thousand inhabitants located within a county with a population of at least thirty-five thousand but not more than forty-five thousand inhabitants which has a total assessed valuation of at least two hundred seventy-five million dollars but not more than three hundred twenty-five million dollars, the governing body of any county with a population of at least twenty thousand but not more than twenty-five thousand which has a total assessed valuation of at least one hundred twenty million dollars but not more than one hundred forty million dollars **or any municipality located in such county** and the governing body of any county with a population of at least twenty-eight thousand but not more than thirty-one thousand which has a total assessed valuation of at least two hundred fifty-five million dollars or any municipality located in such county and the governing body of any county with a population of at least twenty-five thousand but not more than thirty thousand which has a total assessed valuation of at least two hundred million dollars but not more than two hundred five million dollars or any municipality located in such county, or any city located partially but not wholly within a county of the third classification with a population of at least thirty-nine thousand inhabitants may impose, by ordinance or order, a tax on the price paid or charged to any person for rooms or accommodations paid by transient guests of hotels, motels, condominium units, campgrounds, and tourist courts situated within the political subdivision, at a rate not to exceed four percent of such price paid or charged. As used in this section, the term "hotel", "motel", or "tourist court" means any structure or building, under one management, which contains rooms furnished for the accommodation or lodging of guests, with or without meals being provided, including bed and breakfast facilities, and kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are sought for pay or compensation to transient guests, and the term "campground" means real property, other than state-owned property, which contains parcels for rent to transient guests for pay or compensation, which may include temporary utility hook-ups for use by the transient guests, and where such transient guests generally use tents, recreational vehicles or some other form of temporary shelter while on the rented premises. Shelters for the homeless operated by not-for-profit organizations are not a hotel, motel, or tourist court for the purposes of this section. As used in this section, the term "transient guest" means a person who occupies a room or rooms in a hotel, motel, campground, or tourist court for thirty consecutive days or less.

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

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

2. In fiscal years 1995 to **[**2010**]** **2015**, a portion of general revenue determined pursuant to this subsection shall be deposited to the credit of the division of tourism supplemental revenue fund pursuant to subsection 1 of this section. The director of revenue shall determine the amount deposited to the credit of the division of tourism supplemental revenue fund in each fiscal year by computing the previous year's total appropriation into the division of tourism supplemental revenue fund and adding to such appropriation amount the total amount derived from the retail sale of tourist-oriented goods and services collected pursuant to the following sales taxes: state sales taxes; sales taxes collected pursuant to sections 144.010 to 144.430, RSMo, that are designated as local tax revenue to be deposited in the school district trust fund pursuant to section 144.701, RSMo; sales taxes collected pursuant to section 43(a) of article IV of the Missouri Constitution; and sales taxes collected pursuant to section 47(a) of article IV of the Missouri Constitution. If the increase in such sales taxes derived from the retail sale of tourist-oriented goods and services in the fiscal year three years prior to the fiscal year in which each deposit

shall be made is at least three percent over such sales taxes derived from the retail sale of tourist-oriented goods and services generated in the fiscal year four years prior to the fiscal year in which each deposit shall be made, an amount equal to one-half of such sales taxes generated above a three percent increase shall be calculated by the director of revenue and the amount calculated shall be deposited by the state treasurer to the credit of the division of tourism supplemental revenue fund.

3. Total deposits in the supplemental revenue fund in any fiscal year pursuant to subsections 1 and 2 of this section shall not exceed the amount deposited into the division of tourism supplemental revenue fund in the fiscal year immediately preceding the current fiscal year by more than three million dollars.

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

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

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

6. This section shall become effective July 1, 1994. This section shall expire June 30, **[**2010**]** **2015**.

Approved June 26, 2007

HB 220 [HB 220]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Makes a technical correction to Section 456.5-501, RSMo, regarding the Missouri Uniform Trust Code

AN ACT to repeal section 456.5-501, RSMo, and to enact in lieu thereof one new section relating to the Missouri uniform trust code.

SECTION
A. Enacting clause.
456.5-501. Rights of beneficiary's creditor or assignee, exceptions.

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

SECTION A. ENACTING CLAUSE. — Section 456.5-501, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 456.5-501, to read as follows:

456.5-501. RIGHTS OF BENEFICIARY'S CREDITOR OR ASSIGNEE, EXCEPTIONS. — Except as otherwise provided in sections **[**456.5-506**]** **456.5-502** to 456.5-507, to the extent a beneficiary's interest is not subject to a spendthrift provision, an assignee or a judgment creditor of the beneficiary may, without court order, reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means. The court may limit the award to such relief as is appropriate under the circumstances.

Approved June 30, 2007

HB 221 [HCS HB 221]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding motor vehicle extended service contracts and product service contracts

AN ACT to repeal sections 407.1200, 407.1203, 407.1206, 407.1209, 407.1212, 407.1215, 407.1218, 407.1221, 407.1224, 407.1225, and 407.1227, RSMo, and to enact in lieu thereof twenty-two new sections relating to service contracts, with an effective date.

SECTION
A. Enacting clause.
385.200. Definitions
385.202. Issuance of contracts, criteria — registration required — duties of providers — exemption from state licensure.
385.204. Reimbursement insurance policies, requirements.
385.206. Requirements for sale of contracts — dealers not to be used as fronting companies — required contract contents.
385.208. Deceptive practices.
385.210. Record keeping requirements.
385.212. Termination, notice required.
385.214. Providers considered agents of insurer, when — indemnification and subrogation.
385.216. Investigations, administrative orders.
385.218. Rulemaking authority.
385.220. Inapplicability.
385.300. Definitions
385.302. Registration required, fee — administrator authorized — provider requirements.
385.304. Reimbursement insurance policy requirements.
385.306. Contract requirements, contents.
385.308. Deceptive practices.
385.310. Recordkeeping requirements.
385.312. Termination, notice required.
385.314. Providers considered agents of insurer, when — indemnification and subrogation.
385.316. Investigations, administrative orders.
385.318. Rulemaking authority.
385.320. Inapplicability.
407.1200. Definitions.

407.1203. Service contracts issued, when, requirements — registration, fee — faithful performance of obligations, requirements — fees not taxable — licensing requirement exemption, exception — compliance.
407.1206. Insurance policies to state insurer's duty to pay or provide service.
407.1209. Service contract form — required statements — required contents — return of contract, when — additional required contents.
407.1212. Provider's use of name prohibited, when — false statements prohibited — purchase of service contract not required, when.
407.1215. Accurate records required — record contents — records retained, time period — electronic records — discontinued business records maintained, time period — records available to director upon request.
407.1218. Notice of termination required before termination.
407.1221. Providers considered agents of insurer — indemnification not prohibited.
407.1224. Director's powers — hearing may be requested — director's duty — director may seek injunction — penalty.
407.1225. Rulemaking authority.
407.1227. Limitations on application of service contract law.
B. Effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 407.1200, 407.1203, 407.1206, 407.1209, 407.1212, 407.1215, 407.1218, 407.1221, 407.1224, 407.1225, and 407.1227, RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 385.200, 385.202, 385.204, 385.206, 385.208, 385.210, 385.212, 385.214, 385.216, 385.218, 385.220, 385.300, 385.302, 385.304, 385.306, 385.308, 385.310, 385.312, 385.314, 385.316, 385.318, and 385.320, to read as follows:

385.200. DEFINITIONS — As used in sections 385.200 to 385.220, the following terms mean:

(1) "Administrator", the person other than a provider who is responsible for the administration of the service contracts or the service contracts plan or for any filings required by sections 385.200 to 385.220;

(2) "Consumer", a natural person who buys other than for purposes of resale any tangible personal property that is distributed in commerce and that is normally used for personal, family, or household purposes and not for business or research purposes;

(3) "Dealers", any motor vehicle dealer or boat dealer licensed or required to be licensed under the provisions of sections 301.550 to 301.573, RSMo;

(4) "Director", the director of the department of insurance, financial institutions and professional registration;

(5) "Maintenance agreement", a contract of limited duration that provides for scheduled maintenance only;

(6) "Manufacturer", any of the following:

(a) A person who manufactures or produces the property and sells the property under the person's own name or label;

(b) A subsidiary of the person who manufacturers or produces the property;

(c) A person who owns one hundred percent of the entity that manufactures or produces the property;

(d) A person that does not manufacture or produce the property, but the property is sold under its trade name label;

(e) A person who manufactures or produces the property and the property is sold under the trade name or label of another person;

(f) A person who does not manufacture or produce the property but, under a written contract, licenses the use of its trade name or label to another person who sells the property under the licensor's trade name or label;

(7) "Mechanical breakdown insurance", a policy, contract, or agreement issued by an authorized insurer who provides for the repair, replacement, or maintenance of a motor vehicle or indemnification for repair, replacement, or service, for the operational

or structural failure of a motor vehicle due to a defect in materials or workmanship or to normal wear and tear;

(8) "Motor vehicle extended service contract" or "service contract", a contract or agreement for a separately stated consideration and for a specific duration to perform the repair, replacement, or maintenance of a motor vehicle or indemnification for repair, replacement, or maintenance, for the operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provision for incidental payment of indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service, but does not include mechanical breakdown insurance or maintenance agreements;

(9) "Nonoriginal manufacturer's parts", replacement parts not made for or by the original manufacturer of the property, commonly referred to as after market parts;

(10) "Person", an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate, or any similar entity or combination of entities acting in concert;

(11) "Premium", the consideration paid to an insurer for a reimbursement insurance policy;

(12) "Provider", a person who is contractually obligated to the service contract holder under the terms of a motor vehicle extended service contract;

(13) "Provider fee", the consideration paid for a motor vehicle extended service contract by a service contract holder;

(14) "Reimbursement insurance policy", a policy of insurance issued to a provider and under which the insurer agrees, for the benefit of the motor vehicle extended service contract holders, to discharge all of the obligations and liabilities of the provider under the terms of the motor vehicle extended service contracts in the event of nonperformance by the provider. All obligations and liabilities include, but are not limited to, failure of the provider to perform under the motor vehicle extended service contract and the return of the unearned provider fee in the event of the provider's unwillingness or inability to reimburse the unearned provider fee in the event of termination of a motor vehicle extended service contract;

(15) "Service contract holder" or "contract holder", a person who is the purchaser or holder of a motor vehicle extended service contract;

(16) "Warranty", a warranty made solely by the manufacturer, importer, or seller of property or services without charge, that is not negotiated or separated from the sale of the product and is incidental to the sale of the product, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services.

385.202. ISSUANCE OF CONTRACTS, CRITERIA — REGISTRATION REQUIRED — DUTIES OF PROVIDERS — EXEMPTION FROM STATE LICENSURE. — 1. Motor vehicle extended service contracts shall not be issued, sold, or offered for sale in this state unless the provider or its designee has:

(1) Provided a receipt for the purchase of the motor vehicle extended service contract to the contract holder at the date of purchase;

(2) Provided a copy of the motor vehicle extended service contract to the service contract holder within a reasonable period of time from the date of purchase; and

(3) Complied with the provisions of sections 385.200 to 385.220.

2. All providers of motor vehicle extended service contracts sold in this state shall file a registration with the director on a form, at a fee and at a frequency prescribed by the director.

3. In order to assure the faithful performance of a provider's obligations to its contract holders, each provider who is contractually obligated to provide service under a motor vehicle extended service contract shall:

(1) Insure all motor vehicle extended service contracts under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state; or

(2) (a) Maintain a funded reserve account for its obligation under its contracts issued and outstanding in this state. The reserves shall not be less than forty percent of gross consideration received, less claims paid, on the sale of the motor vehicle extended service contract for all in-force contracts. The reserve account shall be subject to examination and review by the director; and

(b) Place in trust with the director a financial security deposit, having a value of not less than five percent of the gross consideration received, less claims paid, on the sale of the motor vehicle extended service contract for all motor vehicle extended service contracts issued and in force, but not less than twenty-five thousand dollars, consisting of one of the following:

a. A surety bond issued by an authorized surety;

b. Securities of the type eligible for deposit by authorized insurers in this state;

c. Cash;

d. A letter of credit issued by a qualified financial institution; or

e. Another form of security prescribed by regulations issued by the director; or

(3) (a) Maintain a net worth of one hundred million dollars; and

(b) Upon request, provide the director with a copy of the provider's or, if the provider's financial statements are consolidated with those of its parent company, the provider's parent company's most recent Form 10-K filed with the Securities and Exchange Commission (SEC) within the last calendar year, or if the company does not file with the SEC, a copy of the company's audited financial statements, which shows a net worth of the provider or its parent company of at least one hundred million dollars. If the provider's parent company's Form 10-K or audited financial statements are filed to meet the provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the obligor relating to motor vehicle extended service contracts sold by the provider in this state.

4. Provider fees collected on motor vehicle extended service contracts shall not be subject to premium taxes. Premiums for reimbursement insurance policies shall be subject to applicable premium taxes.

5. Except for the registration requirement in subsection 2 of this section, persons marketing, selling, or offering to sell motor vehicle extended service contracts for providers that comply with sections 385.200 to 385.220 are exempt from this state's licensing requirements.

6. Providers complying with the provisions of sections 385.200 to 385.220 are not required to comply with other provisions of chapter 374 or 375, RSMo, or any other provisions governing insurance companies, except as specifically provided.

385.204. REIMBURSEMENT INSURANCE POLICIES, REQUIREMENTS. — Reimbursement insurance policies insuring motor vehicle extended service contracts issued, sold, or offered for sale in this state shall conspicuously state that, upon failure of the provider to perform under the contract, such as failure to return the unearned provider fee, the insurer that issued the policy shall pay on behalf of the provider any sums the provider is legally obligated to pay or shall provide the service for which the provider is legally obligated to perform according to the provider's contractual obligations under the motor vehicle extended service contracts issued or sold by the provider.

385.206. REQUIREMENTS FOR SALE OF CONTRACTS — DEALERS NOT TO BE USED AS FRONTING COMPANIES — REQUIRED CONTRACT CONTENTS. — 1. No person shall directly sell, offer for sale, or solicit the sale of a motor vehicle extended service contract to a consumer, other than the following:

(1) A dealer;

(2) A manufacturer of motor vehicles, as defined in section 301.010, RSMo;

(3) A federally insured depository institution;

(4) A lender licensed and defined under sections 367.100 to 367.215, RSMo; or

(5) An administrator, provider, manufacturer, or person working in concert with an administrator, provider, or manufacturer marketing or selling a motor vehicle extended service contract demonstrating financial responsibility as set forth in section 385.202.

2. No administrator or provider shall use a dealer as a fronting company, and no dealer shall act as a fronting company. For purposes of this subsection, "fronting company" means a dealer that authorizes a third-party administrator or provider to use its name or business to evade or circumvent the provisions of subsection 1 of this section.

3. Motor vehicle extended service contracts issued, sold, or offered for sale in this state shall be written in clear, understandable language, and the entire contract shall be printed or typed in easy-to-read type and conspicuously disclose the requirements in this section, as applicable.

4. Motor vehicle extended service contracts insured under a reimbursement insurance policy under subsection 3 of section 385.202 shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are guaranteed under a service contract reimbursement insurance policy. If the provider fails to pay or provide service on a claim within sixty days after proof of loss has been filed, the contract holder is entitled to make a claim directly against the insurance company." A claim against the provider also shall include a claim for return of the unearned provider fee. The motor vehicle extended service contract also shall state conspicuously the name and address of the insurer.

5. Motor vehicle extended service contracts not insured under a reimbursement insurance policy pursuant to subsection 3 of section 385.202 shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are backed only by the full faith and credit of the provider (issuer) and are not guaranteed under a service contract reimbursement insurance policy." A claim against the provider also shall include a claim for return of the unearned provider fee. The motor vehicle extended service contract also shall state conspicuously the name and address of the provider.

6. Motor vehicle extended service contracts shall identify any administrator, the provider obligated to perform the service under the contract, the motor vehicle extended service contract seller, and the service contract holder to the extent that the name and address of the service contract holder has been furnished by the service contract holder.

7. Motor vehicle extended service contracts shall state conspicuously the total purchase price and the terms under which the motor vehicle extended service contract is sold. The purchase price is not required to be preprinted on the motor vehicle extended service contract and may be negotiated at the time of sale with the service contract holder.

8. If prior approval of repair work is required, the motor vehicle extended service contracts shall state conspicuously the procedure for obtaining prior approval and for making a claim, including a toll-free telephone number for claim service and a procedure for obtaining emergency repairs performed outside of normal business hours.

9. Motor vehicle extended service contracts shall state conspicuously the existence of any deductible amount.

10. Motor vehicle extended service contracts shall specify the merchandise and services to be provided and any limitations, exceptions, and exclusions.

11. Motor vehicle extended service contracts shall state the conditions upon which the use of nonoriginal manufacturer's parts, or substitute service, may be allowed. Conditions stated shall comply with applicable state and federal laws.

12. Motor vehicle extended service contracts shall state any terms, restrictions, or conditions governing the transferability of the motor vehicle extended service contract.

13. Motor vehicle extended service contracts shall state the terms, restrictions, or conditions governing termination of the service contract by the service contract holder. The provider of the motor vehicle extended service contract shall mail a written notice to the contract holder within fifteen days of the date of termination.

14. Motor vehicle extended service contracts shall require every provider to permit the service contract holder to return the contract within at least twenty business days of mailing date of the motor vehicle extended service contract or within at least ten days if the service contract is delivered at the time of sale or within a longer time period permitted under the contract. If no claim has been made under the contract, the contract is void and the provider shall refund to the contract holder the full purchase price of the contract. A ten percent penalty per month shall be added to a refund that is not paid within thirty days of return of the contract to the provider. The applicable free-look time periods on service contracts shall apply only to the original service contract purchaser.

15. Motor vehicle extended service contracts shall set forth all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and the requirement for certain service and maintenance.

16. Motor vehicle extended service contracts shall state clearly whether or not the service contract provides for or excludes consequential damages or preexisting conditions.

385.208. DECEPTIVE PRACTICES. — 1. A provider shall not use in its name the words insurance, casualty, guaranty, surety, mutual, or any other words descriptive of the insurance, casualty, guaranty, or surety business, nor shall such provider use a name deceptively similar to the name or description of any insurance or surety corporation, or any other provider. This section shall not apply to a company that was using any of the prohibited language in its name prior to August 28, 2007. However, a company using the prohibited language in its name shall disclose conspicuously in its motor vehicle extended service contract the following statement: "This agreement is not an insurance contract.".

2. A provider or its representative shall not in its motor vehicle extended service contracts or literature make, permit, or cause to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell or advertisement of a motor vehicle extended service contract.

3. A person, such as a bank, savings and loan association, lending institution, manufacturer or seller of any product, shall not require the purchase of a service contract as a condition of a loan or a condition for the sale of any property.

385.210. RECORD KEEPING REQUIREMENTS. — 1. An administrator, provider, or other intermediary shall keep accurate accounts, books, and records concerning transactions regulated by sections 385.200 to 385.220.

2. An administrator's, provider's, or other intermediary's accounts, books, and records shall include:

(1) Copies of each type of motor vehicle extended service contract issued;

(2) The name and address of each service holder to the extent that the name and address have been furnished by the service contract holder;

(3) A list of the provider locations where motor vehicle extended service contracts are marketed, sold, or offered for sale; and

(4) Claims files that shall contain at least the dates, amounts, and description of all receipts, claims, and expenditures related to the motor vehicle extended service contracts.

3. Except as provided in this section, an administrator shall retain all records pertaining to each motor vehicle extended service contract holder for at least three years after the specified period of coverage has expired.

4. An administrator, provider, or other intermediary may keep all records required under sections 385.200 to 385.220 on a computer disk or other similar technology. If an administrator, provider, or other intermediary maintains records in other than hard copy, records shall be accessible from a computer terminal available to the director and be capable of duplication to legible hard copy.

5. An administrator, provider, or other intermediary discontinuing business in this state shall maintain its records until it furnishes the director satisfactory proof that it has discharged all obligations to contract holders in this state.

6. An administrator, provider, or other intermediary shall make all accounts, books, and records concerning transactions regulated pursuant to sections 385.200 to 385.220 or other pertinent laws available to the director upon request.

385.212. TERMINATION, NOTICE REQUIRED. — As applicable, an insurer that issued a reimbursement insurance policy shall not terminate the policy until a notice of termination, in a form and time frame prescribed by the director, has been mailed or delivered to the director. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for motor vehicle extended service contracts issued by providers prior to the date of the termination.

385.214. PROVIDERS CONSIDERED AGENTS OF INSURER, WHEN — INDEMNIFICATION AND SUBROGATION. — 1. Providers are considered to be the agent of the insurer that issued the reimbursement insurance policy. In cases where a provider is acting as an administrator and enlists other providers, the provider acting as the administrator shall notify the insurer of the existence and identities of the other providers.

2. The provisions of sections 385.200 to 385.220 shall not prevent or limit the right of an insurer that issued a reimbursement insurance policy to seek indemnification or subrogation against a provider if the insurer pays or is obligated to pay the service contract holder sums that the provider was obligated to pay under the provisions of the motor vehicle extended service contract or under a contractual agreement.

385.216. INVESTIGATIONS, ADMINISTRATIVE ORDERS. — 1. The director may conduct investigations or examinations of providers, administrators, insurers, or other persons to enforce the provisions of sections 385.200 to 385.220 and protect service contract holders in this state.

2. If the director determines that a person has engaged, is engaging, or is about to engage in a violation of sections 385.200 to 385.220 or a rule adopted or order issued pursuant thereto, or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, omission or course of business constituting a violation of sections 385.200 to 385.220 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of this section is a level two violation under section 374.049, RSMo.

3. If the director believes that a person has engaged, is engaging, or is about to engage in a violation of sections 385.200 to 385.220 or a rule adopted or order issued pursuant thereto, or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, omission or course of business constituting a violation of sections 385.200 to 385.220 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of this section is a level two violation under section 374.049, RSMo.

4. The enforcement authority of the director under this section is cumulative to any other statutory authority of the director.

385.218. RULEMAKING AUTHORITY. — The director may promulgate rules to effectuate sections 385.200 to 385.220. Any rule or portion of a rule, as that term is

defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

385.220. INAPPLICABILITY. — 1. The provisions of sections 385.200 to 385.220 shall not apply to:

(1) Warranties;

(2) Maintenance agreements;

(3) Commercial transactions; and

(4) Service contracts sold or offered for sale to persons other than consumers.

2. Manufacturer's contracts on the manufacturer's products need only comply with the provisions of sections 385.206, 385.208, and 385.216.

385.300. DEFINITIONS — 1. As used in sections 385.300 to 385.320, the following terms mean:

(1) "Administrator", the person who is responsible for the handling and adjudication of claims under the product service agreements;

(2) "Consumer", a natural person who buys other than for purposes of resale any tangible personal property that is distributed in commerce and that is normally used for personal, family, or household purposes and not for business or research purposes;

(3) "Contract holder", a person who is the purchaser or holder of a service contract;

(4) "Director", the director of the department of insurance, financial institutions, and professional registration;

(5) "Maintenance agreement", a contract of limited duration that provides for scheduled maintenance only;

(6) "Manufacturer", any of the following:

(a) A person who manufactures or produces the property and sells the property under the person's own name or label;

(b) A subsidiary of the person who manufacturers or produces the property;

(c) A person who owns one hundred percent of the entity that manufactures or produces the property;

(d) A person that does not manufacture or produce the property, but the property is sold under its trade name label;

(e) A person who manufactures or produces the property and the property is sold under the trade name or label of another person;

(f) A person who does not manufacture or produce the property but, under a written contract, licenses the use of its trade name or label to another person who sells the property under the licensor's trade name or label;

(7) "Nonoriginal manufacturer's parts", replacement parts not made for or by the original manufacturer of the property, commonly referred to as after market parts;

(8) "Person", an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate, or any similar entity or combination of entities acting in concert;

(9) "Premium", the consideration paid to an insurer for a reimbursement insurance policy;

(10) "Property", all forms of property;

(11) "Provider", a person who is contractually obligated to the service contract holder under the terms of a service contract;

(12) "Provider fee", the consideration paid for a service contract, if any, by a service contract holder;

(13) "Reimbursement insurance policy", a policy of insurance issued to a provider and under which the insurer agrees, for the benefit of the service contract holders, to discharge all of the obligations and liabilities of the provider under the terms of the service contracts in the event of nonperformance by the provider. All obligations and liabilities include, but are not limited to, failure of the provider to perform under the service contract and the return of the unearned provider fee in the event of the provider's unwillingness or inability to reimburse the unearned provider fee in the event of termination of a service contract;

(14) "Service contract", a contract for a specific duration and consideration to perform the repair, replacement, or maintenance of property or indemnification for repair, replacement, or maintenance, for the operational or structural failure of any residential or other property due to a defect in materials, workmanship, or normal wear and tear, with or without additional provision for incidental payment of indemnity under limited circumstances, including, but not limited to, unavailability of parts, obsolescence, food spoilage, rental, and shipping. Service contracts may provide for the repair, replacement or maintenance of property for damage resulting from power surges or accidental damage. Service contract providers and administrators are not deemed to be engaged in the business of insurance in this state;

(15) "Warranty", a warranty made solely by the manufacturer, importer, or seller of property or services without charge, that is not negotiated or separated from the sale of the product and is incidental to the sale of the product, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services.

385.302. REGISTRATION REQUIRED, FEE — ADMINISTRATOR AUTHORIZED — PROVIDER REQUIREMENTS. — 1. It is unlawful for any person to issue, sell or offer for sale in this state any service contract, unless each provider has registered with the director on a form prescribed by the director. Each provider shall pay to the director a fee established by the director by rule, but not to exceed three hundred dollars annually.

2. A provider may, but is not required to, appoint an administrator or other designee to be responsible for any or all of the administration of service contracts and compliance with sections 385.300 to 385.320.

3. A provider or its designee shall provide a copy of the service contract to the service contract holder within a reasonable period of time following the date of purchase.

4. In order to assure the faithful performance of a provider's obligations to its contract holders, each provider who contractually is obligated to provide service under a service contract shall comply with one of the following subdivisions:

(1) (a) Maintain a funded reserve account for its obligations under its contract issues and outstanding in this state. The reserve shall not be less than forty percent of gross consideration received, less claims paid, on the sale of the service contract for all in-force contracts. The reserve account shall be subject to examination and review by the director; and

(b) Place in trust with the director a financial security deposit, having a value of not less than five percent of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than twenty-five thousand dollars, consisting of one of the following:

a. A surety bond issued by an authorized surety;

b. Securities of the type eligible for deposit by authorized insurers in this state;

c. Cash;

d. A letter of credit issued by a qualified financial institution; or

e. Another form of security prescribed by regulations issued by the director; or

(2) (a) Maintain a net worth of one hundred million dollars; and

(b) Provide the director with a copy of the provider's or, if the provider's financial statements are consolidated with those of its parent company, the provider's parent company's most recent Form 10-K filed or Form 20-F with the Securities and Exchange Commission (SEC) within the last calendar year, or if the company does not file with the SEC, a copy of the company's audited financial statements, which shows a net worth of the provider or its parent company of at least one hundred million dollars. If the provider's parent company's Form 10-K, Form 20-F, or audited financial statements are filed to meet the provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the obligor relating to service contracts sold by the provider in this state; or

(3) Insure all service contracts under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state. For the purposes of this subsection, the reimbursement insurance policy shall contain the following provisions:

(a) In the event that the provider is unable to fulfill its obligation under contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the insurer will pay losses and unearned fees under such plans directly to the contract holder making a claim under the contract;

(b) The insurer issuing the contractual liability policy shall assume full responsibility for the administration of claims in the event of the inability of the provider to do so; and

(c) The policy may be canceled or not renewed by either the insurer or the provider not less than sixty days after written notice thereof has been given to the director and provider by the insurer;

(4) The reimbursement insurance referenced in subdivision (3) above shall be obtained from an insurer that is authorized, registered or otherwise permitted to transact insurance in this state or a surplus lines insurer authorized pursuant to the laws of this state and which insurer meets one of the following requirements:

(a) Maintain, at the time the policy is filed with the director and continuously thereafter:

a. Surplus as to policyholders and paid-in capital of at least fifteen million dollars; and

b. Annually file copies of the insurer's financial statements, its National Association of Insurance Commissioners annual statement, and the actuarial certification if required and filed in the insurer's state of domicile; or

(b) Maintain, at the time the policy is filed with the director and continuously thereafter:

a. Surplus as to policyholders and paid-in capital of less than fifteen million dollars but at least equal to ten million dollars;

b. Demonstrate to the satisfaction of the director that the insurer maintains a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than three to one; and

c. Annually file copies of the insurer's financial statements, its National Association of Insurance Commissioners annual statement, and the actuarial certification if required and filed in the insurer's state of domicile.

5. Provider fees collected on service agreements shall not be subject to premium taxes. Premiums for reimbursement insurance policies shall be subject to applicable taxes.

6. Except for compliance with the provider's registration requirement in subsection 1 of this section, a person marketing, selling, or offering to sell service contracts for a provider that is registered under this section is exempt from licensing as a producer under the insurance laws of this state.

385.304. REIMBURSEMENT INSURANCE POLICY REQUIREMENTS. — Reimbursement insurance policies insuring service contracts issued, sold or offered for sale in this state shall state that, upon failure of the provider to perform under the contract, including the failure to return the unearned provider fee, the insurer that issued the policy shall pay or perform according to the provider's contractual obligations under the service contracts insured by the insurer.

385.306. CONTRACT REQUIREMENTS, CONTENTS. — 1. Service contracts marketed, issued, sold, or offered for sale in this state shall be written in clear, conspicuous, and understandable language, and the entire contract shall be printed or typed in easy-to-read type and conspicuously disclose the requirements in this section, as applicable.

2. Service contracts insured under a reimbursement insurance policy under subdivision (3) of subsection 4 of section 385.302 shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are guaranteed under a reimbursement insurance policy. If the provider fails to pay or provide service on a claim within sixty days after proof of loss has been filed, the contract holder is entitled to make a claim directly against the insurance company." A claim against the provider may also include a claim for return of the unearned provider fee. The service contract also shall state the name and address of the insurer.

3. Service contracts not insured under a reimbursement insurance policy under subdivision (3) of subsection 4 of section 385.302 shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are backed only by the full faith and credit of the provider (issuer) and are not guaranteed under a reimbursement insurance policy." A claim against the provider shall also include a claim for return of the unearned provider fee. The service contract shall also state the name and address of the provider.

4. Service contracts shall identify any administrator, the provider obligated to perform under the contract, and the service contract seller, if different than the provider or administrator. The identities of such parties are not required to be preprinted on the service contract and may be added to the service contract prior to delivery to the contract holder.

5. Service contracts shall state the total purchase price and the terms under which the service contract is sold. The purchase price is not required to be pre-printed on the service contract and may be negotiated at the time of sale with the service contract holder.

6. If prior approval of repair work is required, the service contracts shall state the procedure for obtaining prior approval and for making a claim, including a toll-free telephone number for claim service and a procedure for obtaining emergency repairs performed outside of normal business hours.

7. Service contracts shall state the existence of any deductible amount.

8. Service contracts shall specify the merchandise and services to be provided and any limitations, exceptions, or exclusions.

9. Service contracts shall state the conditions upon which the use of nonoriginal manufacturers' parts, refurbished merchandise, or substitute service, may be allowed. Conditions stated shall comply with applicable state and federal laws.

10. Service contracts shall state any terms, restrictions, or conditions governing the transferability of the service contract.

11. Service contracts shall state any terms, restrictions, or conditions governing termination of the service agreement by the service contract holder and provider.

12. Service contracts for which the service contract holder pays a separate, identified consideration shall require every provider to permit the service contract holder to return the contract within at least twenty days of the date of mailing of the service contract or within at least ten days if the service contract is delivered at the time of sale or within a longer time period permitted under the contract. If no claim has been made under the

contract, the contract is void and the provider shall refund to the contract holder the full purchase price of the contract. A ten percent penalty per month shall be added to a refund that is not paid within forty-five days of return of the contract to the provider. The applicable free-look time periods on service contracts shall apply only to the original service contract purchaser, and only if no claim has been made prior to its return to the provider.

13. Service contracts shall set forth all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and the requirement for certain service and maintenance.

14. Service contracts shall state clearly whether or not the service contract provides for or excludes consequential damages, preexisting conditions, or events covered under the original manufacturer's warranty.

15. Service contracts shall state any limitations on the number or value of repairs, replacements, or monetary settlements, as applicable, that will be provided during the term of coverage.

385.308. DECEPTIVE PRACTICES. — 1. It is unlawful for any provider to use in its name the words insurance, casualty, guaranty, surety, mutual, or any other words descriptive of the insurance, casualty, guaranty, or surety business, or any name deceptively similar to the name or description of any insurance or surety corporation, or other provider.

2. This section shall not apply to a company that was using any of the prohibited language in its name prior to August 28, 2007. However, a company using the prohibited language in its name shall disclose in its service contracts a statement in substantially the following form: "This contract is not an insurance contract.".

3. It is unlawful for a provider or its representative in its service contracts or literature to make, permit, or cause to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell or advertisement of a product service contract.

4. It is unlawful for a person, such as a bank, savings and loan association, or lending institution, to require the purchase of a service contract as a condition of a loan or other financing transaction.

5. It is unlawful for a person, such as a manufacturer or retailer, to require the purchase of a service contract as a condition to the sale of goods or services.

385.310. RECORDKEEPING REQUIREMENTS. — 1. A provider or administrator shall keep accurate accounts, books, and records concerning transactions regulated under sections 385.300 to 385.320. However, only one set of such accounts, books, and records is required to be maintained and may be maintained by third parties provided the provisions of this section are met.

2. An administrator's or provider's accounts, books, and records shall include:

(1) Copies of each type of service contract issued;

(2) The name and address of each service contract holder to the extent that the name and address have been furnished by the service contract holder;

(3) A list of the provider locations where service contracts are marketed, sold, or offered for sale; and

(4) Claims files that shall contain at least the dates, amounts, and description of all receipts, claims, and expenditures related to the service contracts.

3. Except as provided in subsection 5 of this section, an administrator or provider shall retain or arrange for the retention of all records pertaining to each service contract holder for at least three years after the specified period of coverage had expired.

4. An administrator or provider may keep all records required under sections 385.300 to 385.320 on a computer disk or other similar technology. If an administrator or provider maintains records in other than hard copy, records shall be accessible from a computer terminal available to the director and be capable of duplication to legible hard copy.

5. An administrator or provider discontinuing business in this state shall maintain or arrange for the maintenance of its records until it furnishes the director satisfactory proof that it has discharged all obligations to contract holders in this state.

6. An administrator or provider shall make all accounts, books, and records concerning transactions regulated under sections 385.300 to 385.320 or other pertinent laws available to the director upon request.

385.312. TERMINATION, NOTICE REQUIRED. — As applicable, an insurer that issued a reimbursement insurance policy shall not terminate or nonrenew the policy until a notice of termination has been mailed or delivered to the director. The termination or nonrenewal of a reimbursement insurance policy shall not reduce the issuer's responsibility for service contracts issued by providers prior to the date of the termination.

385.314. PROVIDERS CONSIDERED AGENTS OF INSURER, WHEN — INDEMNIFICATION AND SUBROGATION. — 1. Providers are considered to be the agent of the insurer which issued the reimbursement insurance policy for purposes of obligating the insurer to contract holders under service contracts associated with the insurer's reimbursement policy, and the payment of premium by the provider is not a condition to the insurer's obligations for otherwise validly issued service contracts.

2. Sections 385.300 to 385.320 shall not prevent or limit the right of an insurer which issued a reimbursement insurance policy to seek indemnification or subrogation against a provider if the issuer pays or is obligated to pay the service contract holder sums that the provider was obligated to pay pursuant to the provisions of the product service contract.

385.316. INVESTIGATIONS, ADMINISTRATIVE ORDERS. — 1. The director may conduct investigations or examinations of providers, administrators, insurers, or other persons to enforce the provisions of sections 385.300 to 385.320 and protect service contract holders in this state.

2. If the director determines that a person has engaged, is engaging, or is about to engage in a violation of sections 385.300 to 385.320 or a rule adopted or order issued pursuant thereto, or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, omission, or course of business constituting a violation of sections 385.300 to 385.320 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of this section is a level two violation under section 374.049, RSMo.

3. If the director believes that a person has engaged, is engaging, or is about to engage in a violation of sections 385.300 to 385.320 or a rule adopted or order issued pursuant thereto, or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, omission, or course of business constituting a violation of sections 385.300 to 385.320 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo.

4. The enforcement authority of the director under this section is cumulative to any other statutory authority of the director.

385.318. RULEMAKING AUTHORITY. — The director may promulgate rules to effectuate sections 385.300 to 385.320. Any rule or portion of a rule, as that term is

defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

385.320. INAPPLICABILITY. — 1. Sections 385.300 to 385.320 shall not apply to:

(1) Warranties;

(2) Maintenance agreements;

(3) Warranties, service contracts, or maintenance agreements offered by public utilities on their transmission devices to the extent they are regulated under the laws of this state;

(4) Service contracts sold or offered for sale to persons other than consumers;

(5) Service contracts sold or offered to nonresidents of this state regardless of whether the entity selling or offering such contracts is located or doing business in this state;

(6) Motor vehicle extended service contracts, as defined in section 385.200; and

(7) Agreements or warranties which provide for the service, repair, replacement, or maintenance of the systems, appliances, and structural components of residential or commercial real property.

2. Manufacturer's service contracts on the manufacturer's products need only comply with the provisions of sections 385.306, 385.308, and 385.316.

[407.1200. DEFINITIONS. — As used in sections 407.1200 to 407.1227, the following terms shall mean:

(1) "Administrator", the person who is responsible for the administration of the service contracts or the service contracts plan and who is responsible for any filings required by sections 407.1200 to 407.1227;

(2) "Consumer", a natural person who buys other than for purposes of resale any motor vehicle that is distributed in commerce and that is normally used for personal, family, or household purposes and not for business or research purposes;

(3) "Director", the director of the department of insurance;

(4) "Maintenance agreement", a contract of limited duration that provides for scheduled maintenance only;

(5) "Manufacturer", a person that:

(a) Manufactures or produces the property and sells the property under its own name or label;

(b) Is a wholly owned subsidiary of the person who manufactures or produces the property;

(c) Is a corporation which owns one hundred percent of the person who manufactures or produces the property;

(d) Does not manufacture or produce the property, but the property is sold under its trade name label;

(e) Manufactures or produces the property and the property is sold under the trade name or label of another person; or

(f) Does not manufacture or produce the property but, pursuant to a written contract, licenses the use of its trade name or label to another person that sells the property under the licensor's trade name or label;

(6) "Mechanical breakdown insurance", a policy, contract, or agreement issued by an authorized insurer that provides for the repair, replacement, or maintenance of a motor vehicle

or indemnification for repair, replacement, or service, for the operational or structural failure of a motor vehicle due to a defect in materials or workmanship or to normal wear and tear;

(7) "Motor vehicle extended service contract" or "service contract", a contract or agreement for a separately stated consideration or for a specific duration to perform the repair, replacement, or maintenance of a motor vehicle or indemnification for repair, replacement, or maintenance, for the operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provision for incidental payment of indemnity under limited circumstances, including, but not limited to, towing, rental, and emergency road service, but does not include mechanical breakdown insurance or maintenance agreements;

(8) "Nonoriginal manufacturer's parts", replacement parts not made for or by the original manufacturer of the property, commonly referred to as "after market parts";

(9) "Person", an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate, or any similar entity or combination of entities acting in concert;

(10) "Premium", the consideration paid to an insurer for a reimbursement insurance policy;

(11) "Provider", a person who administers, issues, makes, provides, sells, or offers to sell a motor vehicle extended service contract, or who is contractually obligated to provide service under a motor vehicle extended service contract such as sellers, administrators, and other intermediaries;

(12) "Provider fee", the consideration paid for a service contract in excess of the premium;

(13) "Reimbursement insurance policy", a policy of insurance issued to a provider and pursuant to which the insurer agrees, for the benefit of the service contract holders, to discharge all of the obligations and liabilities of the provider under the terms of the service contracts in the event of nonperformance by the provider. All obligations and liabilities include, but are not limited to, failure of the provider to perform under the service contract and the return of the unearned provider fee in the event of the provider's unwillingness or inability to reimburse the unearned provider fee in the event of termination of a service contract;

(14) "Service contract holder" or "contract holder", a person who is the purchaser or holder of a service contract;

(15) "Warranty", a warranty made solely by the manufacturer, importer, or seller of property or services without charge, that is not negotiated or separated from the sale of the product and is incidental to the sale of the product, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services.**]**

[407.1203. SERVICE CONTRACTS ISSUED, WHEN, REQUIREMENTS — REGISTRATION, FEE — FAITHFUL PERFORMANCE OF OBLIGATIONS, REQUIREMENTS — FEES NOT TAXABLE — LICENSING REQUIREMENT EXEMPTION, EXCEPTION — COMPLIANCE. — 1. Service contracts shall not be issued, sold, or offered for sale in this state unless the administrator or its designee has:

(1) Provided a receipt for the purchase of the service contract to the contract holder at the date of purchase;

(2) Provided a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase; and

(3) Complied with the provisions of sections 407.1200 to 407.1227.

2. All administrators of service contracts sold in this state shall file a registration with the director on a form, at a fee and at a frequency prescribed by the director.

3. In order to assure the faithful performance of a provider's obligations to its contract holders, each provider who is contractually obligated to provide service under a service contract shall:

(1) Insure all service contracts under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state; or

(2) (a) Maintain a funded reserve account for its obligation under its contracts issued and outstanding in this state. The reserves shall not be less than forty percent of gross consideration received, less claims paid, on the sale of the service contract for all in-force contracts. The reserve account shall be subject to examination and review by the director; and

(b) Place in trust with the director a financial security deposit, having a value of not less than five percent of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than twenty-five thousand dollars, consisting of one of the following:

a. A surety bond issued by an authorized surety;

b. Securities of the type eligible for deposit by authorized insurers in this state;

c. Cash;

d. A letter of credit issued by a qualified financial institution; or

e. Another form of security prescribed by regulations issued by the director; or

(3) (a) Maintain a net worth of one hundred million dollars; and

(b) Upon request, provide the director with a copy of the provider's or, if the provider's financial statements are consolidated with those of its parent company, the provider's parent company's most recent Form 10-K filed with the Securities and Exchange Commission (SEC) within the last calendar year, or if the company does not file with the SEC, a copy of the company's audited financial statements, which shows a net worth of the provider or its parent company of at least one hundred million dollars. If the provider's parent company's Form 10-K or audited financial statements are filed to meet the provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the obligor relating to service contracts sold by the provider in this state.

4. Provider fees collected on service contracts shall not be subject to premium taxes. Premiums for reimbursement insurance policies shall be subject to applicable premium taxes.

5. Except for the registration requirement in subsection 2 of this section, persons marketing, selling, or offering to sell service contracts for providers that comply with sections 407.1200 to 407.1227 are exempt from this state's licensing requirements.

6. Providers complying with the provisions of sections 407.1200 to 407.1227 are not required to comply with other provisions of chapter 374 or 375, or any other provisions governing insurance companies, except as specifically provided.**]**

[407.1206. INSURANCE POLICIES TO STATE INSURER'S DUTY TO PAY OR PROVIDE SERVICE. — Reimbursement insurance policies insuring service contracts issued, sold, or offered for sale in this state shall conspicuously state that, upon failure of the provider to perform under the contract, such as failure to return the unearned provider fee, the insurer that issued the policy shall pay on behalf of the provider any sums the provider is legally obligated to pay or shall provide the service which the provider is legally obligated to perform according to the provider's contractual obligations under the service contracts issued or sold by the provider.**]**

[407.1209. SERVICE CONTRACT FORM — REQUIRED STATEMENTS — REQUIRED CONTENTS — RETURN OF CONTRACT, WHEN — ADDITIONAL REQUIRED CONTENTS. — 1. Service contracts issued, sold, or offered for sale in this state shall be written in clear, understandable language and the entire contract shall be printed or typed in easy to read ten-point type or larger and conspicuously disclose the requirements in this section, as applicable.

2. Service contracts insured under a reimbursement insurance policy pursuant to subsection 3 of section 407.1203 shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are guaranteed under a service contract reimbursement insurance policy. If the provider fails to pay or provide service on a claim within sixty days after proof of loss has been filed, the contract holder is entitled to make a claim

directly against the insurance company.". A claim against the provider shall also include a claim for return of the unearned provider fee. The service contract shall also conspicuously state the name and address of the insurer.

3. Service contracts not insured under a reimbursement insurance policy pursuant to subsection 3 of section 407.1203 shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are backed only by the full faith and credit of the provider (issuer) and are not guaranteed under a service contract reimbursement insurance policy.". A claim against the provider shall also include a claim for return of the unearned provider fee. The service contract shall also conspicuously state the name and address of the provider.

4. Service contracts shall identify any administrator, the provider obligated to perform the service under the contract, the service contract seller, and the service contract holder to the extent that the name and address of the service contract holder has been furnished by the service contract holder.

5. Service contracts shall conspicuously state the total purchase price and the terms under which the service contract is sold. The purchase price is not required to be preprinted on the service contract and may be negotiated at the time of sale with the service contract holder.

6. If prior approval of repair work is required, the service contracts shall conspicuously state the procedure for obtaining prior approval and for making a claim, including a toll-free telephone number for claim service and a procedure for obtaining emergency repairs performed outside of normal business hours.

7. Service contracts shall conspicuously state the existence of any deductible amount.

8. Service contracts shall specify the merchandise and services to be provided and any limitations, exceptions, and exclusions.

9. Service contracts shall state the conditions upon which the use of nonoriginal manufacturer's parts, or substitute service, may be allowed. Conditions stated shall comply with applicable state and federal laws.

10. Service contracts shall state any terms, restrictions, or conditions governing the transferability of the service contract.

11. Service contracts shall state the terms, restrictions, or conditions governing termination of the service contract by the service contract holder. The provider of the service contract shall mail a written notice to the contract holder within fifteen days of the date of termination.

12. Service contracts shall require every provider to permit the service contract holder to return the contract within at least twenty business days of the date of mailing of the service contract or within at least ten days if the service contract is delivered at the time of sale or within a longer time period permitted under the contract. If no claim has been made under the contract, the contract is void and the provider shall refund to the contract holder the full purchase price of the contract. A ten percent penalty per month shall be added to a refund that is not paid within thirty days of return of the contract to the provider. The applicable free-look time periods on service contracts shall only apply to the original service contract purchaser.

13. Service contracts shall set forth all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and the requirement for certain service and maintenance.

14. Service contracts shall clearly state whether or not the service contract provides for or excludes consequential damages or preexisting conditions.**]**

[407.1212. PROVIDER'S USE OF NAME PROHIBITED, WHEN — FALSE STATEMENTS PROHIBITED — PURCHASE OF SERVICE CONTRACT NOT REQUIRED, WHEN. — 1. A provider shall not use in its name the words insurance, casualty, guaranty, surety, mutual, or any other words descriptive of the insurance, casualty, guaranty, or surety business; or a name deceptively similar to the name or description of any insurance or surety corporation, or any other provider. This section shall not apply to a company that was using any of the prohibited language in its

name prior to August 28, 2004. However, a company using the prohibited language in its name shall conspicuously disclose in its service contract the following statement: "This agreement is not an insurance contract.".

2. A provider or its representative shall not in its service contracts or literature make, permit, or cause to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell or advertisement of a service contract.

3. A person, such as a bank, savings and loan association, lending institution, manufacturer or seller of any product, shall not require the purchase of a service contract as a condition of a loan or a condition for the sale of any property.**]**

[407.1215. ACCURATE RECORDS REQUIRED — RECORD CONTENTS — RECORDS RETAINED, TIME PERIOD — ELECTRONIC RECORDS — DISCONTINUED BUSINESS RECORDS MAINTAINED, TIME PERIOD — RECORDS AVAILABLE TO DIRECTOR UPON REQUEST. — 1. An administrator, provider, or other intermediary shall keep accurate accounts, books, and records concerning transactions regulated by sections 407.1200 to 407.1227.

2. An administrator's, provider's, or other intermediary's accounts, books, and records shall include:

(1) Copies of each type of service contract issued;

(2) The name and address of each service contract holder to the extent that the name and address have been furnished by the service contract holder;

(3) A list of the provider locations where service contracts are marketed, sold, or offered for sale; and

(4) Claims files which shall contain at least the dates, amounts, and description of all receipts, claims, and expenditures related to the service contracts.

3. Except as provided in this section, an administrator shall retain all records pertaining to each service contract holder for at least three years after the specified period of coverage has expired.

4. An administrator, provider, or other intermediary may keep all records required pursuant to sections 407.1200 to 407.1227 on a computer disk or other similar technology. If an administrator, provider, or other intermediary maintains records in other than hard copy, records shall be accessible from a computer terminal available to the director and be capable of duplication to legible hard copy.

5. An administrator, provider, or other intermediary discontinuing business in this state shall maintain its records until it furnishes the director satisfactory proof that it has discharged all obligations to contract holders in this state.

6. An administrator, provider, or other intermediary shall make all accounts, books, and records concerning transactions regulated pursuant to sections 407.1200 to 407.1227 or other pertinent laws available to the director upon request.**]**

[407.1218. NOTICE OF TERMINATION REQUIRED BEFORE TERMINATION. — As applicable, an insurer that issued a reimbursement insurance policy shall not terminate the policy until a notice of termination, in a form and time frame prescribed by the director, has been mailed or delivered to the director. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for service contracts issued by providers prior to the date of the termination.**]**

[407.1221. PROVIDERS CONSIDERED AGENTS OF INSURER — INDEMNIFICATION NOT PROHIBITED. — 1. Providers are considered to be the agent of the insurer that issued the reimbursement insurance policy. In cases where a provider is acting as an administrator and enlists other providers, the provider acting as the administrator shall notify the insurer of the existence and identities of the other providers.

2. The provisions of sections 407.1200 to 407.1227 shall not prevent or limit the right of an insurer which issued a reimbursement insurance policy to seek indemnification or subrogation against a provider if the insurer pays or is obligated to pay the service contract holder sums that the provider was obligated to pay pursuant to the provisions of the service contract or under a contractual agreement.**]**

[407.1224. DIRECTOR'S POWERS — HEARING MAY BE REQUESTED — DIRECTOR'S DUTY — DIRECTOR MAY SEEK INJUNCTION — PENALTY. — 1. The director may conduct investigations or examinations of providers, administrators, insurers, or other persons to enforce the provisions of sections 407.1200 to 407.1227 and protect service contract holders in this state.

2. The director may take action that is necessary or appropriate to enforce the provisions of sections 407.1200 to 407.1227 and the director's regulations and orders, and to protect service contract holders in this state.

3. The director may order a service contract provider to cease and desist from committing violations of sections 407.1200 to 407.1227 or the director's regulations or orders, may issue an order prohibiting a service contract provider from selling or offering for sale service contracts, or may issue an order imposing a civil penalty, or any combination of these, if the provider has violated the provisions of sections 407.1200 to 407.1227 or the director's regulations or orders.

4. A person aggrieved by an order pursuant to this section may request a hearing before the director. The hearing request shall be filed with the director within twenty days of the date the director's order is effective.

5. Pending the hearing and the decision by the director, the director shall suspend the effective date of the order. At the hearing, the burden shall be on the director to show why the order issued pursuant to this section is justified. Such hearing shall be held in accordance with the provisions of chapter 536, RSMo.

6. The director may bring an action in the circuit court of Cole County for an injunction or other appropriate relief to enjoin threatened or existing violations of sections 407.1200 to 407.1227 or of the director's orders or regulations. An action filed pursuant to this section may also seek restitution on behalf of persons aggrieved by a violation of sections 407.1200 to 407.1227 or orders or regulations of the director.

7. A person in violation of sections 407.1200 to 407.1227 or orders or regulations of the director may be assessed a civil penalty not to exceed one thousand dollars per violation.

8. The authority of the director pursuant to this section is in addition to other authority of the director.**]**

[407.1225. RULEMAKING AUTHORITY. — The director may promulgate rules to effectuate sections 407.1200 to 407.1227. 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.**]**

[407.1227. LIMITATIONS ON APPLICATION OF SERVICE CONTRACT LAW. — 1. The provisions of sections 407.1200 to 407.1224 shall not apply to:

(1) Warranties;

(2) Maintenance agreements;

(3) Commercial transactions; and

(4) Service contracts sold or offered for sale to persons other than consumers.

2. Manufacturer's contracts on the manufacturer's products need only comply with the provisions of sections 407.1209, 407.1212, and 407.1224.**]**

SECTION B. EFFECTIVE DATE. — The repeal of sections 407.1200, 407.1203, 407.1206, 407.1209, 407.1212, 407.1215, 407.1218, 407.1221, 407.1224, 407.1225, and 407.1227 and the enactment of sections 385.200, 385.201, 385.203, 385.204, 385.205, 385.207, 385.208, 385.209, 385.210, 385.211, 385.212, 385.300, 385.301, 385.302, 385.303, 385.304, 385.305, 385.306, 385.307, 385.310, 385.311, and 385.312, shall become effective January 1, 2008.

Approved July 13, 2007

HB 264 [HB 264]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows the State Board of Education greater flexibility in investing funds deposited in the State Public School Fund

AN ACT to repeal section 166.021, RSMo, and to enact in lieu thereof one new section relating to the state public school fund.

SECTION
A. Enacting clause.
166.021. Investment of capital of public school fund — securities deposited with state treasurer.

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

SECTION A. ENACTING CLAUSE. — Section 166.021, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 166.021, to read as follows:

166.021. INVESTMENT OF CAPITAL OF PUBLIC SCHOOL FUND — SECURITIES DEPOSITED WITH STATE TREASURER. — 1. All funds accruing to the state public school fund, except the interest on the fund, shall be invested by the state board of education in registered bonds of the United States or the state, bonds of school districts of the state, or bonds or other securities payment of which is fully guaranteed by the United States**[**, of not less than par value**]**.

2. Whenever the state board of education contracts with the seller of any such bonds or securities, the board shall requisition and the commissioner of administration shall approve and forthwith issue a warrant upon the state treasurer for the purchase price agreed upon, payable out of the state public school fund, in favor of the seller.

3. All bonds or securities so purchased shall be made payable to, or be registered in the name of, the state treasurer as trustee of the state public school fund and shall be deposited as part of the state public school fund with the state treasurer who shall give his receipt therefor to the board of education.

Approved June 13, 2007

HB 268 [HB 268]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Governor to convey an easement over, on, and under state property located in Callaway County to the City of Fulton

AN ACT to authorize the conveyance of property owned by the state in Callaway County to the City of Fulton.

SECTION
1. Conveyance of an easement to the city of Fulton for a permanent biking and hiking trail, procedure.

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

SECTION 1. CONVEYANCE OF AN EASEMENT TO THE CITY OF FULTON FOR A PERMANENT BIKING AND HIKING TRAIL, PROCEDURE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey a permanent biking and hiking trail easement over, on, and under property owned by the state in Callaway County to the City of Fulton, to be more particularly described as follows:

A tract of land lying in the Southwest Quarter of the Northeast Quarter of Section 16; Township 47 North, Range 9 West, in Fulton, Callaway County, Missouri, being in the north part of that tract described by a General Warranty Deed recorded in Book 24, Page 601 of the Callaway County, Missouri records and being more particularly described as follows:

Beginning at the Northeast corner of the Southwest Quarter of the Northeast Quarter of said Section 16 as shown by an unrecorded land survey by Registered Land Surveyor #2578, dated November 14, 2002, for the State of Missouri of the Missouri School for the Deaf property; thence S 0°36'50" W, along the Quarter Quarter Section line, 35.00 feet; thence N 87°09'00" W, 945.63 feet; thence N 3°00'39" E, 35.00 feet to the North line of said Southwest Quarter of the Northeast Quarter; thence S 87°09'00" E, along the North line of said Southwest Quarter of the Northeast Quarter, 944.17 feet to the Point of Beginning, containing 0.76 acre, more or less.

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 May 31, 2007

HB 272 [HCS HB 272]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Designates the three-toed box turtle as the official state reptile

AN ACT to amend chapter 10, RSMo, by adding thereto one new section relating to the designation of the official state reptile.

SECTION
A. Enacting clause.
10.175. Three-toed box turtle, official state reptile.

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 10.175, to read as follows:

10.175. THREE-TOED BOX TURTLE, OFFICIAL STATE REPTILE. — The three-toed box turtle, scientifically designated as Terrapene carolina triunguis, is selected for and shall be known as the official reptile of the state of Missouri.

Approved June 21, 2007

HB 298 [SCS HCS HB 298]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Missouri Blasting Safety Act to regulate various blasting and excavation activities

AN ACT to amend chapter 319, RSMo, by adding thereto seventeen new sections relating to blasting and excavation, with penalty provisions.

SECTION
A. Enacting clause.
319.300. Citation of law — purpose statement.
319.303. Definitions.
319.306. Blaster's license required, when — application, contents — fee — qualifications — expiration — documentation required — training required — rulemaking authority.
319.309. Explosives, use of, calculation of scaled distance to nearest uncontrolled structure required.
319.312. Ground vibration limits to be followed, when — alternative compliance method — limit on acoustic values from blasting.
319.315. Retention of seismographic recordings, how long — records to include certain information.
319.318. Compliance with state and federal law — registration with division of fire safety required — annual report required — audit of records — violations, penalty.
319.321. Inapplicability of law, when.
319.324. State blasting safety board created, members, terms, officers, meetings, duties.
319.327. Duties of the division — enforcement.
319.330. Missouri explosives safety act administration fund created, use of moneys.
319.333. Notice of violation, procedure.
319.336. Grievance procedure.
319.339. Notification of division prior to use of explosives required — exception.
319.342. Municipalities to be notified of use of explosives, when, procedure — certain owners and businesses to be notified — ordinances authorized.
319.343. Inapplicability of prohibition on local preemption, when.
319.345. Rulemaking authority.

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

SECTION A. ENACTING CLAUSE. — Chapter 319, RSMo, is amended by adding thereto seventeen new sections, to be known as sections 319.300, 319.303, 319.306, 319.309, 319.312, 319.315, 319.318, 319.321, 319.324, 319.327, 319.330, 319.333, 319.336, 319.339, 319.342, 319.343, and 319.345, to read as follows:

319.300. CITATION OF LAW — PURPOSE STATEMENT. — Sections 319.300 to 319.345 shall be known as the "Missouri Blasting Safety Act". The purpose of sections 319.300 to 319.345 shall be to foster the safe use of explosives in mining and construction by establishing and enforcing consistent statewide industry standards for licensing of blasters and persons using explosives. The provisions of sections 319.300 to 319.345 or any rules or regulations promulgated thereunder shall not be construed to amend, supersede, or conflict with any requirement of federal law or regulation governing the manufacturing, transporting, or storage of explosives.

319.303. DEFINITIONS. — As used in sections 319.300 to 319.345, the following terms shall mean:

(1) "Blaster", a person qualified to be in charge of and responsible for the loading and firing of an explosive or explosive material;

(2) "Blast", detonation of explosives;

(3) "Blasting", the use of explosives in mining or construction;

(4) "Blast site", the area where explosives are handled during loading of a bore hole, including fifty feet in all directions from the perimeter formed by loaded holes. A minimum of thirty feet may replace the fifty feet requirement if the perimeter of loaded holes is marked and separated from nonblast site areas by a barrier. The fifty feet or thirty feet distance requirements, as applicable, shall apply in all directions along the full depth of the bore hole;

(5) "Board", the state blasting safety board created in section 319.324;

(6) "Bore hole", a hole made with a drill, auger, or other tool in which explosives are placed in preparation for detonation;

(7) "Burden", the distance from an explosive charge to the nearest free or open face at the time of detonation;

(8) "Business day", any day of the week except Saturday, Sunday, or a federal or state holiday;

(9) "Deck", charge of explosives separated from other charges by stemming;

(10) "Delay period", the time delay provided by blasting caps which permits firing of bore holes in sequence;

(11) "Detonation", the action of converting the chemicals in an explosive charge to gases at a high pressure by means of a self-propagating shock wave passing through the charge;

(12) "Detonator", any device containing initiating or primary explosive that is used for initiating detonation of another explosive material. A detonator may not contain more than ten grams of total explosives by weight, excluding ignition or delay charges. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuse, detonating cord delay connectors, and nonelectric instantaneous and delay blasting caps which use detonating cord, nonelectric shock tube, or any other replacement for electric leg wires;

(13) "Explosives", any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, including, but not limited to, dynamite, black powder, pellet powder, initiating explosives, detonators, millisecond connectors, safety fuses, squibs, detonating cord, igniter cord, and igniters; includes explosive materials such as any blasting agent, emulsion explosive, water gel, or detonator. Explosive materials determined to be within the coverage of sections 319.300 to 319.345 shall include all such materials listed in Chapter 40 of Title 18 of the United States Code, as amended, as issued at least annually by the Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives;

(14) "Firing", causing explosives to be detonated by the use of a fuse, electric detonator, or nonelectric shock tube;

(15) "Fire Protection official", an authorized representative of a municipal fire department, fire protection district, or volunteer fire protection association for the area where blasting occurs;

(16) "Fugitive from justice", any person who has fled from the jurisdiction of any court of record to avoid prosecution for any crime or to avoid giving testimony in any criminal proceeding. The term shall also include any person who has been convicted of any crime and has fled to avoid case disposition;

(17) "Initiation system", components of an explosive charge that cause the charge to detonate, such as primers, electric detonators, and detonating charge;

(18) "Loading", placing of explosives in a hole in preparation for detonation;

(19) "Local government", a city, county, fire protection district, volunteer fire protection association, or other political subdivision of the state;

(20) "Person using explosives", any individual, proprietorship, partnership, firm, corporation, company, or joint venture that is required to hold authority to receive or use explosives under statutes or regulations administered by the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives and who employs licensed blasters;

(21) "Scaled distance", a value determined by dividing the linear distance, in feet, from the blast to a specified location, by the square root of the maximum weight of explosives, in pounds, to be detonated in any eight millisecond period;

(22) "Seismograph", an instrument that measures ground vibration and acoustic effects;

(23) "Spacing", the distance between adjacent bore holes;

(24) "Stemming", inert material that is placed above explosives that have been placed in a blast hole in preparation for detonation or vertically between columnar decks of explosives that have been placed in a hole in preparation for detonation;

(25) "Uncontrolled structure", any dwelling, public building, school, church, commercial building, or institutional building, that is not owned or leased by the person using explosives, or otherwise under the direct contractual responsibility of the person using explosives.

319.306. BLASTER'S LICENSE REQUIRED, WHEN — APPLICATION, CONTENTS — FEE — QUALIFICATIONS — EXPIRATION — DOCUMENTATION REQUIRED — TRAINING REQUIRED — RULEMAKING AUTHORITY. — 1. Any individual who uses explosives in Missouri shall obtain a blaster's license, except those exempted in subsection 18 of this section. A person using explosives shall not be required to hold a blaster's license, but all blasting on behalf of a person using explosives shall be performed only by licensed blasters. Applications for a blaster's license or renewal of a blaster's license shall be on a form designated by the Missouri division of fire safety, and shall contain the following:

(1) The applicant's full name;

(2) The applicant's home address;

(3) The applicant's date of birth;

(4) The applicant's sex;

(5) The applicant's physical description;

(6) The applicant's driver's license number;

(7) The applicant's current place of employment;

(8) A listing of any other blasting license or certification held by the applicant, to include the name, address, and phone number of the regulatory authority that issued the license or certification;

(9) Any other information required to fulfill the obligations of sections 319.300 to 319.345.

2. Any individual who has met the qualifications set forth in subsection 4 of this section may apply for a blaster's license.

3. An applicant for a blaster's license shall submit an application fee and two copies of the applicant's photograph with the application submitted to the division of fire safety. The amount of such fee shall be established by rule promulgated by the division of fire safety. The fee established by rule shall be no greater than the cost of administering this section, but shall not exceed one hundred dollars.

4. An applicant for a blaster's license shall:

(1) Be at least twenty-one years of age;

(2) Not have willfully violated any provisions of sections 319.300 to 319.345;

(3) Not have knowingly withheld information or has not made any false or fictitious statement intended or likely to deceive in connection with the application;

(4) Have familiarity and understanding of relevant federal and state laws relating to explosives materials;

(5) Not have been convicted in any court of, or plead guilty to, a felony;

(6) Not be a fugitive from justice;

(7) Not be an unlawful user of any controlled substance in violation of chapter 195, RSMo;

(8) Except as provided in subsections 11 and 13 of this section, have completed an approved blaster's training course that meets the requirements of subsection 14 of this section and has successfully passed the licensing examination under the provisions of subdivisions (1) to (5) of subsection 15 of this section;

(9) Have accumulated at least one thousand hours of experience directly relating to the use of explosives within two years immediately prior to applying for a blaster's license and shall provide signed documentation from an employer, supervisor, or other responsible party verifying the applicant's experience;

(10) Not have been adjudicated as mentally defective; and

(11) Not advocate or knowingly belong to any organization or group that advocates violent action against any federal, state, or local government, or against any person.

5. Any individual holding a blaster's license under the provisions of this section shall promptly notify the division of fire safety if he or she has had any change of material fact relating to any qualification for holding a blaster's license.

6. If the division of fire safety finds that the requirements for a blaster's license have been satisfied, a license shall be issued to the applicant.

7. A blaster's license shall expire three years from the date of issuance. To qualify for a renewal of a blaster's license, an individual will be required to provide documentation of completing eight hours of training in an explosives-related course of instruction that is approved by the division of fire safety, at least half of which shall have been completed within the year prior to renewal. The remainder of such training for renewal of the license may be acquired at any time during the three-year period that a license is valid. Additional training beyond an accumulated eight hours during any three-year period is not valid for more than one subsequent renewal of the license.

8. Each license issued under the provisions of this section shall provide documentation to the license holder in the form of a letter or letter-sized certificate and a card that is approximately two inches by three inches in size. Each shall specify a unique license number, the name of the individual, his or her driver's license number, the individual's photograph, the blaster's license's effective date and its expiration date, and any other record-keeping information needed by the division of fire safety. In addition, the card form of the license shall contain a photographic image of the license holder.

9. Each individual required to have a blaster's license shall keep at least one form of license documentation on his or her person or at the site of blasting and shall provide documentation that he or she has a currently valid license to a representative of the division of fire safety upon a written or verbal request. No enforcement action shall be taken against any individual that cannot comply with such a request so long as the division

of fire safety's records provide documentation that the individual has a valid blaster's license.

10. (1) A blaster's license issued under the provisions of this section may be suspended or revoked by the division of fire safety upon substantial proof that the individual holding the license has:

(a) Knowingly failed to monitor the use of explosives as provided in section 319.309;

(b) Negligently or habitually exceeded the limits established under section 319.312;

(c) Knowingly or habitually failed to create a record of blasts as required by section 319.315;

(d) Had a change in material fact relating to their qualifications for holding a blaster's license as described in subsection 4 of this section;

(e) Failed to advise the division of fire safety of any change of material fact relating to his or her qualifications for holding a blaster's license; or

(f) Knowingly made a material misrepresentation of any information by any means of false pretense, deception, fraud, misrepresentation, or cheating for the purpose of obtaining training or otherwise meeting the qualifications of obtaining a license.

(2) The division of fire safety shall provide any notice of suspension or revocation, as provided in subdivision (1) of this subsection, in writing, sent by certified mail to the last known address of the holder of the license. The notice may also be verbal, but this does not eliminate the requirement for written notice. Upon receipt of a verbal or written notice of suspension or revocation from the division of fire safety, the individual holding the license shall immediately surrender all copies of the license to a representative of the division of fire safety and shall immediately cease all blasting activity.

(3) The individual holding the license may appeal any suspension or revocation to the state blasting safety board established under section 319.324 within forty-five days of the date written notice was received. The division of fire safety shall immediately notify the chairman of the board that an appeal has been received and a hearing before the board shall be held. The board shall consider and make a decision on any appeal received by the division of fire safety within thirty days of the date the appeal is received by the division of fire safety. The board shall make a decision on the appeal by majority vote of the board and shall immediately notify the licensee of its decision in writing. The written statement of the board's decision shall be prepared by the division of fire safety or its designee and shall be approved by the chairman of the board. The approved statement of the board's decision shall be sent by certified mail to the last known address of the holder of the license.

11. Any individual whose license has been expired for a period of three years or less shall be required to successfully pass the examination as provided in subdivisions (1) to (5) of subsection 15 of this section and attend the eight hours of training required for renewal of a license as minimum qualifications for submitting an application for reinstatement of the license. Any individual whose license has been expired for a period of more than three years shall meet the qualifications set forth in subsection 4 of this section, including completing twenty hours of training and passing the examination, prior to applying for a blaster's license.

12. A license may be granted to applicants who within the last three years have held a valid license or certification from any other source if all of the qualifications for obtaining the license or certification meet or exceed the provisions of this section. It is the duty of the division of fire safety to investigate the qualifications required for obtaining a license or certification from any other source. Licenses or certification held prior to the effective date of the rule required by subsection 19 of this section shall be deemed to meet requirements for this subsection, provided that they meet requirements of the rule.

13. A license may be granted upon the application of an individual employed as a blaster on or before December 31, 2000, and who has accumulated one thousand hours

of training or education pertaining to blasting and experience working for a specific person using explosives within two years immediately prior to applying for a license. The application shall include a statement of hours of experience in the form of an affidavit signed by the person using explosives who has employed or contracted with the blaster for the preceding two years. Such applicant also shall meet the requirement of subdivisions (1), (2), (3), (4), (5), (6), (7), (10), and (11) of subsection 4 of this section. Any individual granted a license under this subsection shall be limited to blasting performed for the person using explosives submitting the affidavit required by this subsection. Such licensee shall meet the requirements for continuing training required by subsection 7 of this section.

14. (1) The division of fire safety or its authorized agent shall offer annually at least two courses of instruction that fulfill the training requirement of qualifying for a blaster's license and two courses that fulfill the training requirement for renewal of a blaster's license. In addition, any person may apply to the division of fire safety for approval of a course of instruction that meets the training requirement of obtaining a blaster's license or renewal of a blaster's license. The application shall include a description of the qualifications of the instructor, a description of instructional materials to be used in the course, and an outline of the subject matter to be taught, including minimum hours of instruction on each topic. The division of fire safety shall review the application regarding the knowledge and experience of proposed instructors, the total hours of training and the adequacy of proposed training in subject matter with regard to the provisions of sections 319.300 to 319.345. If the division of fire safety determines that training proposed by the applicant is adequate, a letter of approval shall be issued to the applicant. The letter of approval shall be effective for a period of three years. If at any time the division of fire safety determines that an approved training course no longer meets the standards of this section, the letter of approval may be revoked with written notice. The division of fire safety or any person providing a course of instruction may charge an appropriate fee to recover the cost of conducting such instruction.

(2) To be approved by the division of fire safety, a blaster's training course shall contain at least twenty hours of instruction to prepare attendees for obtaining a blaster's license the first time, or eight hours of instruction to prepare attendees for obtaining a license renewal.

(3) Any person providing training in a course of instruction approved by the division of fire safety shall submit a list of individuals that attended any such course to the division of fire safety within ten business days after completion of the course.

(4) The division of fire safety shall maintain a current list of persons who provide approved training and shall make this list available by any reasonable means to professional and trade associations, labor organizations, universities, vocational schools, and others upon request.

15. (1) The division of fire safety shall approve a standard examination or examinations for the purpose of qualifying an individual to obtain a blaster's license. Each individual taking the examination shall pay a fee to the division of fire safety, or the division's agent, that is established by rule. Testing fees shall be no greater than what is required to administer the testing provisions of this section and shall not exceed fifty dollars per test.

(2) Except as provided in subsection 11 of this section, no individual shall be allowed to take an examination for purposes of obtaining a blaster's license unless that individual has completed a training course approved by the division of fire safety. The individual must have completed an approved course of instruction as provided in subdivision (1) of subsection 14 of this section no longer than two years prior to taking the examination. The examination may be administered by any person approved to provide a course of instruction, as provided in subdivision (1) of subsection 14 of this section, at the site of

instruction, provided that any such examination may, at the discretion of the state fire marshal, be conducted under the supervision of the division of fire safety. The division of fire safety may also administer such examinations at other times and locations.

(3) Standards for passing the examination shall be set by the division of fire safety by rule.

(4) The division of fire safety or its authorized agent shall provide a written statement within thirty days to the individual taking the examination as to whether that individual passed or failed.

(5) Any individual failing to pass the examination may retake the examination within six months without having to complete an additional approved course of instruction. If the individual fails the second examination, the person must complete another course of instruction as required in subdivision (1) of subsection 14 of this section before taking the examination again. No limit will be placed on how many times any individual may take the examination, subject to the provisions of this subdivision of this subsection.

(6) Individuals having previously taken an approved blaster's training course, and passed an approved examination, and having taken an approved blaster's renewal training course, or that have obtained a blaster's license as provided in subsections 12 and 13 of this section are eligible for renewal of a blaster's license after meeting the requirements of subsection 7 of this section. The fee for renewal of a license shall be the same as the fee specified in subsection 3 of this section.

16. No individual shall load or fire explosives or direct, order, or otherwise cause any individual to load or fire explosives in this state unless that individual has a valid blaster's license or is under the direct supervision and responsibility of an individual having a valid blaster's license. For purposes of this section, "direct supervision" means the supervisor is physically present on the same job site as the individual who is loading or firing explosives. An individual without a blaster's license who is loading or firing explosives while under the direct supervision and responsibility of someone having a blaster's license shall not be in violation of sections 319.300 to 319.345.

17. Persons found guilty of loading or firing explosives, or directing, ordering, or otherwise causing any individual to load or fire explosives in this state without having a valid blaster's license, or that loads and fires explosives without being under the direct supervision and responsibility of an individual holding a blaster's license as provided in sections 319.300 to 319.345, shall be guilty of a class B misdemeanor for the first offense or a class A misdemeanor for a second or subsequent offense. Any individual convicted of a class A misdemeanor under the provisions of sections 319.300 to 319.345 shall be permanently prohibited from obtaining a blaster's license in this state.

18. The requirement for obtaining a blaster's license shall not apply to:

(1) Individuals employed by universities, colleges, or trade schools when the use of explosives is confined to instruction or research;

(2) Individuals using explosive materials in the forms prescribed by the official U.S. Pharmacopoeia or the National Formulary and used in medicines and medicinal agents;

(3) Individuals conducting training or emergency operations of any federal, state, or local government including all departments, agencies, and divisions thereof, provided they are acting in their official capacity and in the proper performance of their duties or functions;

(4) Individuals that are members of the armed forces or any military unit of Missouri or the United States who are using explosives while on official training exercises or who are on active duty;

(5) Individuals using pyrotechnics, commonly known as fireworks, including signaling devices such as flares, fuses, and torpedoes;

(6) Individuals using small arms ammunition and components thereof which are subject to the Gun Control Act of 1968, 18 U.S.C., Section 44, and regulations promulgated thereunder;

(7) Any individual performing duties in underground mines regulated by 30 CFR Part 48, Subpart A, 30 CFR Part 57, or performing duties in coal mining regulated by 30 CFR Part 75, and 30 CFR Part 77 of the Code of Federal Regulations, as amended, or using explosives within an industrial furnace;

(8) Any individual having a valid blaster's license or certificate issued under the provisions of any requirement of the U.S. government in which the requirements for obtaining the license or certificate meet or exceed the requirements of sections 319.300 to 319.345;

(9) Individuals using agricultural fertilizers when used for agricultural or horticultural purposes;

(10) Individuals handling explosives while in the act of transporting them from one location to another;

(11) Individuals assisting or training under the direct supervision of a licensed blaster;

(12) Individuals handling explosives while engaged in the process of explosives manufacturing;

(13) Employees, agents, or contractors of rural electric cooperatives organized or operating under chapter 394, RSMo; and

(14) Individuals discharging historic firearms and cannon or reproductions of historic firearms and cannon.

19. The division of fire safety shall promulgate rules under this section to become effective no later than July 1, 2008. Any individual loading or firing explosives after the effective date of such rule shall obtain a license within one hundred eighty days of the effective date of such rule. Any experience or training prior to the effective date of such rule that meets the standards established by the rule shall be deemed to comply with this section.

319.309. EXPLOSIVES, USE OF, CALCULATION OF SCALED DISTANCE TO NEAREST UNCONTROLLED STRUCTURE REQUIRED. — 1. Any person using explosives in the state of Missouri shall calculate the scaled distance to the nearest uncontrolled structure. If more than one uncontrolled structure is the same approximate distance from the blast site, then the person using explosives may select one representative structure for calculation of scaled distance.

2. For the purposes of this section, the term "uncontrolled structure" shall not apply to the following:

(1) Buildings in a state of disrepair or neglect which are not being used as a permanent residence;

(2) Noncommercial storage sheds;

(3) Temporary structures;

(4) Any unoccupied mobile recreational vehicle, trailer, or camper;

(5) Agricultural barns, storage sheds, and animal shelters;

(6) Any building on mine property that is owned by the mine operator or contained on property leased by the mine operator.

3. In any instance when the scaled distance value is fifty-five or less, any person using explosives, except as provided in section 319.321, shall use at least one seismograph calibrated to the manufacturer's standard for use to record the ground vibration and acoustic levels that occur from the use of such explosives or explosive materials. When measuring ground vibration and acoustic levels, the seismograph shall be placed in the proximity of the nearest uncontrolled structure or, at the option of the person using explosives, closer to the blast site. If more than one uncontrolled structure is the same approximate distance from the blast site, then the person using explosives may select one representative structure for placement of the seismograph.

4. Any person using explosives who is voluntarily using a seismograph calibrated to the manufacturer's standard for use for all blasting is exempt from the requirements of this section.

319.312. GROUND VIBRATION LIMITS TO BE FOLLOWED, WHEN — ALTERNATIVE COMPLIANCE METHOD — LIMIT ON ACOUSTIC VALUES FROM BLASTING. — 1. (1) Any person using explosives in the state of Missouri in which monitoring with a seismograph is required, as provided in section 319.309, shall comply with ground vibration limits based on the U.S. Bureau of Mines Report of Investigations 8507, Appendix B.

(2) In lieu of the ground vibration limit established in subdivision (1) of this subsection, the person using explosives may submit a written request to the division of fire safety to use an alternate compliance method. Such written request shall be supported by sufficient technical information, which may include but not be limited to, documented approval of such method by other federal, state, or local political subdivisions which regulate the use of explosives. Upon submittal by the person using explosives of a request to use an alternate compliance method, the state blasting safety board shall issue a written determination as to whether the technical information submitted provides sufficient justification for the alternate method to be used as a method of demonstrating compliance with the provisions of this section.

2. Any person using explosives in the state of Missouri in which monitoring with a seismograph is required, as provided in section 319.309, shall limit acoustic values from blasting to one hundred thirty-three decibels using a two hertz flat response measuring system based on the Office of Surface Mining Regulation 816.67(b)(1)(i).

319.315. RETENTION OF SEISMOGRAPHIC RECORDINGS, HOW LONG — RECORDS TO INCLUDE CERTAIN INFORMATION. — 1. Seismograph recordings of the ground vibration and acoustic levels created by the use of explosives, when required by section 319.309, shall be retained for at least three years. Such recordings shall be made available to the division of fire safety within twenty-four hours of a request by any representative of the division of fire safety. Each seismograph recording and the accompanying records shall include the:

(1) Maximum ground vibration and acoustics levels recorded;

(2) Specific location of the seismograph equipment, its distance from the detonation of the explosives, the date of the recording, and the time of the recording;

(3) Name of the individual responsible for operation of the seismograph equipment and performing an analysis of each recording; and

(4) Type of seismograph instrument, its sensitivity and calibration signal or certification date of the last calibration.

2. When seismograph recordings of the use of explosives are required by section 319.309, a record of each such use of explosives shall be made and retained for at least three years. The record shall be completed by the end of the business day following the day in which the explosives were detonated. Such records shall be made available to the division of fire safety, upon request, within twenty-four hours of the request. Each record shall include the:

(1) Name of the person using the explosives;

(2) Location, date, and time of the detonation;

(3) Name of the licensed blaster responsible for use of the explosives;

(4) Type of material blasted;

(5) Number of bore holes, burden, and spacing;

(6) Diameter and depth of bore holes;

(7) Type of explosives used;

(8) Weight of explosives used per bore hole and total weight of explosives used;

(9) Maximum weight of explosives detonated within any eight millisecond period;

(10) Maximum number of bore holes or decks detonated within any eight millisecond period;

(11) Initiation system, including number of circuits and the timer interval, if a sequential timer is used;

(12) Type and length of stemming;

(13) Type of detonator and delay periods used, in milliseconds;

(14) Sketch of delay pattern, including decking;

(15) Distance and scaled distance, if required under the provisions of 319.309, to the nearest uncontrolled structure;

(16) Location of the nearest uncontrolled structure, using the best available information.

3. If the type of blasting being recorded by a seismograph does not involve bore holes, then the record required in subsection 2 of this section shall contain the:

(1) Name of the person using the explosives;

(2) Location, date, and time of the detonation;

(3) Name of the licensed blaster responsible for use of the explosives;

(4) Type of material blasted;

(5) Type of explosives used;

(6) Weight of explosives used per shot and total weight of explosives used;

(7) Maximum weight of explosives detonated within any eight millisecond period;

(8) Initiation system, including number of circuits and the timer interval, if a sequential timer is used;

(9) Type of detonator and delay periods used, in milliseconds;

(10) Sketch of delay pattern;

(11) Distance and scaled distance, if required under the provisions of section 319.309, to the nearest uncontrolled structure;

(12) Location of the nearest uncontrolled structure, using the best available information.

4. It shall be the duty of each licensed blaster and each person using explosives to assure that the requirements of this section are met. Any person using explosives shall provide properly calibrated seismographic equipment at the closest practical proximity to the nearest uncontrolled structure, or at the option of the person using explosives the seismograph equipment may be located nearer to the blast site on an approximate line between the nearest uncontrolled structure and the blast site. Licensed blasters shall create the record required in subsections 2 and 3 of this section and provide such record to the person using explosives, who shall be responsible for maintaining records required in this section.

319.318. COMPLIANCE WITH STATE AND FEDERAL LAW — REGISTRATION WITH DIVISION OF FIRE SAFETY REQUIRED — ANNUAL REPORT REQUIRED — AUDIT OF RECORDS — VIOLATIONS, PENALTY. — 1. Any person using explosives shall comply with the provisions of this section.

2. Provisions of federal law and regulation regarding the manufacturing, transportation, distribution, and storage of explosives shall be enforced by the appropriate federal agency and shall not be subject to enforcement under sections 319.300 to 319.345.

3. Within sixty days after the effective date of sections 319.300 to 319.345, each person using explosives or intending to use explosives in Missouri shall register with the division of fire safety. Any person using explosives who is not required to register on the effective date, who subsequently uses explosives in Missouri, shall register with the division of fire safety prior to first using explosives in Missouri. The initial registration shall state the name of the person, address, telephone number, facsimile number, e-mail address, and

name of the principal individual having responsibility for supervision of the use of explosives. A fee of two hundred dollars shall be submitted with the initial registration.

4. Each person using explosives that is required to register under subsection 3 of this section shall by January thirty-first of each year after registering file an annual report with the division of fire safety for the preceding calendar year.

(1) The initial annual report shall only include that portion of the preceding calendar year after the date the person became subject to the requirement to register under subsection 3 of this section.

(2) The report shall include:

(a) Any change or addition to the information required in subsection 3 of this section;

(b) The name and address of the distributors from which explosives were purchased;

(c) The total number of pounds of explosives purchased for use in Missouri and the total number of pounds actually used in Missouri during the period covered by the report. Persons required to report annually shall maintain records sufficient to prove the accuracy of the information reported.

(3) The person using explosives shall submit with the annual report a fee per ton, as established under this section, based on the amount of explosives used in Missouri. If the report of total pounds used results in a portion of a ton, the cumulative total of the fee shall be rounded to the nearest ton. The fee shall be five hundred dollars plus one dollar and fifteen cents per ton of explosives used. The fee per ton authorized under this subdivision may be adjusted by rule provided the fee shall not exceed two dollars per ton. The state blasting safety board shall review the fee schedule on a biennial basis and approve or disapprove adjustments in fees by rule.

5. (1) The division of fire safety may audit the records of any person using explosives required to report annually under subsection 4 of this section to determine the accuracy of the number of pounds of explosives reported. In connection with such audit, the division of fire safety may also require any distributor of explosives to provide a statement of sales during the year to persons required to report under subsection 4 of this section.

(2) It shall be a violation of sections 319.300 to 319.345 to fail to register or report as required by subsection 3 of this section or knowingly report false information in the reports required under subsections 3 and 4 of this section. The state fire marshal may issue a notice of violation under section 319.333 for failure to register or report or for knowingly reporting false information in the reports required by subsections 3 and 4 of this section. The notice of violation shall be subject to the same procedures and rights of appeal as established in sections 319.324, 319.327, and 319.333.

(3) Any person who fails to register or report or who knowingly reports false information in the reports required under subsections 3 and 4 of this section shall be subject to a civil penalty not exceeding two thousand dollars for the first offense or a penalty not exceeding five thousand dollars for a second or subsequent offense. Fees for use of explosives not reported shall also be paid.

6. It shall be a violation of sections 319.300 to 319.345 for any person using explosives to:

(1) Engage in blasting other than by a licensed blaster or an individual working under the direct supervision of a licensed blaster;

(2) Fail to calculate the scaled distance, conduct monitoring of vibration and noise levels, and conduct record keeping as required by sections 319.300 to 319.345;

(3) Fail to carry a minimum of one million dollars in commercial general liability insurance.

7. The state fire marshal may issue a notice of violation for any violation of subsection 6 of this section which shall be subject to the same procedures and rights of appeal as established in sections 319.324, 319.327, and 319.333.

8. A violation of subsection 6 of this section shall be subject to a civil penalty not exceeding two thousand dollars for the first offense or a penalty not exceeding five thousand dollars for a second or subsequent offense.

319.321. INAPPLICABILITY OF LAW, WHEN. — Sections 319.309, 319.312, 319.315, and 319.318 shall not apply to:

(1) Universities, colleges, or trade schools when confined to the purpose of instruction or research;

(2) The use of explosive materials in the forms prescribed by the official U.S. Pharmacopoeia or the National Formulary and used in medicines and medicinal agents;

(3) The training or emergency operations of any federal, state, or local government including all departments, agencies, and divisions thereof, provided they are acting in their official capacity and in the proper performance of their duties or functions;

(4) The use of explosives by the military or any agency of the United States;

(5) The use of pyrotechnics, commonly known as fireworks, including signaling devices such as flares, fuses, and torpedoes;

(6) The use of small arms ammunition and components thereof which are subject to the Gun Control Act of 1968, 18 U.S.C., Section 44, and regulations promulgated thereunder. Any small arms ammunition and components thereof exempted by the Gun Control Act of 1968 and regulations promulgated thereunder are also exempted from the provisions of sections 319.300 to 319.345;

(7) Any person performing duties using explosives within an industrial furnace;

(8) The use of agricultural fertilizers when used for agricultural or horticultural purposes;

(9) The use of explosives for lawful demolition of structures;

(10) The use of explosives by employees, agents, or contractors of rural electric cooperatives organized or operating under chapter 394, RSMo; and

(11) Individuals discharging historic firearms and cannon or reproductions of historic firearms and cannon.

319.324. STATE BLASTING SAFETY BOARD CREATED, MEMBERS, TERMS, OFFICERS, MEETINGS, DUTIES. — 1. The state blasting safety board is hereby created and assigned to the division of fire safety under the state fire marshal. There shall be seven members of this board, as appointed by the governor, with the advice and consent of the senate, to be comprised of:

(1) One representative of a municipality or county governed by sections 319.300 to 319.345 who serves in the capacity of director of public works or a similar position;

(2) One representative of a person using explosives that is engaged in mining that is subject to the requirements of section 319.300 to 319.345;

(3) One representative of a person using explosives that is engaged in construction;

(4) One person who is in the business of providing contract blast monitoring services;

(5) Two persons who manufacture or distribute explosives; and

(6) The state fire marshal or his or her designee.

2. Each board member shall serve for a term of six years, except for the members initially appointed one term shall be for one year, one term shall be for two years, one term shall be for three years, one term shall be for four years, one term shall be for five years, and one term shall be for six years. Members appointed and serving shall serve until their successor is named and shall be eligible for reappointment. The state fire marshal or his or her designee shall be a standing member of the board and shall have the power to vote.

3. Members of the board shall serve without compensation but may be reimbursed by the division of fire safety for reasonable and necessary expenses. Meetings of the board

shall be held in facilities arranged by the division of fire safety. Hearings of the board may be held at a location in Missouri agreed upon by the state fire marshal and the chairman of the board. Upon agreement by the licensee, the state fire marshal, and the chairman of the state blasting safety board, hearings may be conducted by conference call.

4. The board shall annually by January thirty-first elect a chairman from one of the members other than the state fire marshal or his or her designee. The chairman shall be elected by majority vote of the board and shall preside over all meetings and hearings and perform any specific duties set out in sections 319.300 to 319.345.

5. The state fire marshal or his or her designee shall perform the duties of secretary of the board.

6. The board shall meet as needed at the call of the chairman or upon written notice by the state fire marshal. The board shall meet at least once each calendar year.

7. It shall be the duty of the board to:

(1) Advise the state fire marshal in the development of application and registration forms, training and examinations, and setting fees for the filing of required applications, registrations, and reports;

(2) Approve or disapprove any examination for licensing of blasters;

(3) Hold hearings and make decisions by majority vote upon appeals under subsection 10 of section 319.306 and upon notices of violation under subsection 7 of section 319.318 or section 319.333;

(4) Approve or disapprove any rule proposed by the division of fire safety for the administration of sections 319.300 to 319.345;

(5) Advise or assist the division of fire safety in any other matter regarding administration or enforcement, within the scope and requirements of sections 319.300 to 319.345.

8. For any matter upon which a hearing is held under subdivision (3) of subsection 7 of this section, any referral of a notice of violation or request for criminal or civil enforcement action or injunctive relief shall be made by the state fire marshal to the attorney general or a prosecuting attorney, only upon a majority vote by the board.

319.327. DUTIES OF THE DIVISION — ENFORCEMENT. — 1. It shall be the duty of the division of fire safety to:

(1) Develop and distribute all forms, certificates, and printed material necessary for carrying out duties relating to applications, registrations, training, testing, and licensing required by sections 319.300 to 319.345;

(2) Publish, distribute, and administer an examination that tests the knowledge of applicants for a blaster's license in the safe and proper use of explosives. The examination may be given to applicants by representatives of the division of fire safety, by persons approved by the division of fire safety to provide training under section 319.306, or by other persons designated by the division of fire safety;

(3) Upon approval by majority vote of the state blasting safety board, promulgate any rule necessary for carrying out the purposes of sections 319.300 to 319.345. No rule promulgated by the state fire marshal shall duplicate, amend, supersede, or conflict with the provisions of any statute, regulation, or policy established by:

(a) The U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives;

(b) Chapter 40 of Title 18 of the United States Code, as amended;

(c) The U.S. Department of Transportation;

(d) The federal Mine Safety and Health Administration; or

(e) The federal Occupational Safety and Health Administration;

(4) Investigate possible violations of sections 319.300 to 319.345 upon the complaint of any citizen that believes explosives are being used in such a way to endanger the public's

safety or property, or upon any cause for the state fire marshal to believe that a violation is occurring. To conduct such investigations, the state fire marshal shall assign adequately trained personnel within the division of fire safety to inspect blasting sites, examine records and seismograph recordings, inspect blaster's licenses, inspect registration and reporting records required by section 319.315, or determine if any other provision of sections 319.300 to 319.345 has been violated. Such inspectors shall be employees of the division of fire safety and may act on a full-time or part-time basis. Any such inspector shall meet the requirements of section 319.306 for being licensed as a blaster in the state of Missouri;

(5) Receive and provide information and assistance, in cooperation with local governments, federal agencies, and agencies of other states, in administration and enforcement of sections 319.300 to 319.345 and similar laws, regulations, and requirements in other jurisdictions.

2. The division of fire safety may enforce any provision of sections 319.300 to 319.345 by referral of violations to the attorney general or a prosecuting attorney and may seek criminal penalties, civil penalties, and may seek injunctive relief as authorized by sections 319.300 to 319.345. Any violation of sections 319.300 to 319.345, other than loading or firing explosives in violation of subsection 16 of section 319.306 which shall be subject to penalties under such section, shall be subject to a civil penalty not exceeding two thousand dollars for the first offense or a penalty not exceeding five thousand dollars for a second or subsequent offense. For any matter upon which a hearing is held under subdivision (3) of subsection 7 of section 319.324, any referral of a notice of violation or request for enforcement action shall be made by the state fire marshal to the attorney general or a prosecuting attorney, only upon a majority vote by the board.

319.330. MISSOURI EXPLOSIVES SAFETY ACT ADMINISTRATION FUND CREATED, USE OF MONEYS. — There is hereby created in the state treasury the "Missouri Explosives Safety Act Administration Fund", which shall consist of all fees collected under sections 319.300 to 319.345, appropriations of the general assembly, federal grants, and private donations. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, RSMo, the state treasurer may approve disbursements. Upon appropriation, money in the fund shall be used solely for the administration of sections 319.300 to 319.345. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund except that, at the end of each biennium and after all statutorily or constitutionally required transfer of funds have been made, the state treasurer shall transfer the balance in the fund, except for gifts, donations, bequests, or money received from a federal source, created in this section in excess of two hundred percent of the fund's previous fiscal year's expenditures into the state general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. The state fire marshal shall submit a report to the state blasting safety board and the public each year that describes the revenue created by fees established under the provisions of sections 319.300 to 319.345 and how the revenue was expended to enforce the provisions of sections 319.300 to 319.345, including the number of employees used and activities performed.

319.333. NOTICE OF VIOLATION, PROCEDURE. — Any individual or person using explosives who the state fire marshal or his or her representative determines, upon substantial evidence, to be in violation of sections 319.300 to 319.345 may be issued a notice of violation by the division of fire safety. Any hearings regarding suspension or revocation of a blaster's license shall be conducted under the provisions of subsection 10 of section 319.306, rather than the provisions of this section. Any notice of violation of any provision

of sections 319.300 to 319.345 shall be in writing and shall state the section or sections violated and the circumstance of the violation, including date, place, person involved, and the act or omission constituting the violation. The notice shall also inform the person receiving the notice of the right to request a hearing before the state blasting safety board for any violation, except for the violation of failure to hold a blasting license as required by section 319.306 for which no appeal may be made. The recipient may request a hearing within forty-five days of the date the notice was received. If a hearing is requested, the state fire marshal shall immediately inform the chairman of the board. The person receiving the notice, the state fire marshal, and the chairman of the board shall establish a mutually acceptable date and place for the hearing, which in no case shall be more than thirty days after the hearing was requested. The hearing shall be conducted as an uncontested case, although the person or the state fire marshal may be represented by an attorney. Within fifteen days of such hearing, the board shall notify the person of its decision on the appeal, which may include upholding, modifying, or disapproving the notice of violation. The board's action upon the appeal shall be decided by majority vote. If the notice of violation is upheld by the board, in whole or part, upon a separate majority vote of the board, the person may be referred for enforcement action as provided in section 319.327.

319.336. GRIEVANCE PROCEDURE. — Any individual aggrieved by any official action of the state blasting safety board or the division of fire safety affecting their license status, including revocation, suspension, failure to renew, or refusal to grant a license may seek a determination thereon by the administrative hearing commission under the provisions of section 621.045, RSMo.

319.339. NOTIFICATION OF DIVISION PRIOR TO USE OF EXPLOSIVES REQUIRED — EXCEPTION. — 1. Any person using explosives within Missouri shall notify the division of fire safety in writing or by telephone at least two business days in advance of first using explosives at a site where blasting has not been previously conducted. If blasting will be conducted at an ongoing project, such as a long term construction project, or at a permanent site, such as a mine, the person shall only be required to make one notice to the division of fire safety in advance of the first use of explosives.

2. The notice required by this section shall state the name, address, and telephone number of the person using explosives, the name of the individual responsible for supervision of blasting, the date or approximate period over which blasting will be conducted, the location of blasting by street address, route, or other description, and the nature of the project or reason for blasting.

3. This section shall not apply to any blasting required by a contract with any agency of the state of Missouri, any federal agency, or any political subdivision.

319.342. MUNICIPALITIES TO BE NOTIFIED OF USE OF EXPLOSIVES, WHEN, PROCEDURE — CERTAIN OWNERS AND BUSINESSES TO BE NOTIFIED — ORDINANCES AUTHORIZED. — 1. Any person using explosives that will conduct blasting within the jurisdiction of a municipality shall notify the appropriate representative of the municipality in writing or by telephone at least two business days in advance of blasting at that location. An appropriate representative shall be deemed to be the city's public works department, code enforcement official, or an official at the main office maintained by the municipality. In any area where blasting will be conducted, whether in a municipality or in an unincorporated area, the person using explosives also shall notify the appropriate fire protection official for the jurisdiction where blasting will occur, which may be a city fire department, fire protection district, or volunteer fire protection association. The notice required by this section shall state the name, address, and telephone number of the person

using explosives, the name of the individual responsible for supervision of blasting, the date or approximate period over which blasting will be conducted, the location of blasting by street address, route, or other description, and the nature of the project or reason for blasting. If blasting will be conducted at an ongoing project, such as a long term construction project, or at a permanent site, such as a surface mine, the person shall only be required to make one notice to the municipality or appropriate fire protection official in advance of the first use of explosives. Any such ongoing projects or permanent sites in existence at the time of the effective date of sections 319.300 to 319.345 shall not be required to provide notice as described in this subsection.

2. Any person using explosives which will conduct blasting within the jurisdiction of a municipality shall notify the owner or occupant of any residence or business located within a scaled distance of fifty-five from the site of blasting prior to the start of blasting at any new location. One notification by mail, telephone, printed notification posted prominently on the premises or the property of the owner or occupant of the residence or business, or delivered in person to any such owner or occupant meets the requirements of this subsection. A municipality may provide the name, last known address, and telephone number of the owners or occupants of any residence or business that may be located within the scaled distance of fifty-five from the site of blasting to the person using explosives upon request.

3. Any municipality or county may by ordinance or order:

(1) Require that a permit be obtained in addition to the notice required by subsection 1 of this section, with such application for permit being due no more than ten days prior to the first use of explosives;

(2) Require that the application for the permit contain specific information about the type of explosives to be used and their storage location at the site where used;

(3) Require the applicant to demonstrate an acceptable plan for signage or other means of informing the public of blasting in proximity to public streets or highways and any request for temporary closing of streets or routing of traffic;

(4) Specify the times of day blasting may be conducted, which shall not be less than eight consecutive hours on any day of the week except the ordinance or order may prohibit blasting on Sunday unless approved by the municipality or county upon application by the person using explosives;

(5) Require that the applicant submit proof that the person using explosives is registered with the division of fire safety and that blasting will be conducted by a licensed blaster;

(6) Require that the applicant submit proof of commercial general liability insurance in an acceptable amount, which shall be no less than one million dollars and no more than five million dollars;

(7) Require that the applicant make at least three documented attempts to contact the owner of any uncontrolled structures within a scaled distance of thirty-five from the blast site in order to conduct a preblast survey of such structures. A preblast survey is not required if the owner of any such structure does not give permission for a survey to be conducted;

(8) Enact any other provision necessary to carry out the provisions of the ordinance or order, including the conditions under which the permit may be suspended or revoked or appropriate fines may be imposed for failure to obtain a permit or violations of the permit.

4. A permit for blasting under a municipal or county ordinance or order authorized by subsection 3 of this section shall be granted by the municipality or county upon satisfying the requirements of the ordinance or order and upon the applicant's payment of a reasonable fee to cover the administration of the permit system.

5. Any authorized representative of a municipality, county or an appropriate fire protection official may:

(1) Require any person using explosives to show proof that he or she is registered with the division of fire safety and blasting is being conducted by an individual that is licensed under the provisions of section 319.306;

(2) Request and be allowed access to the site of blasting by the person using explosives and shall be allowed to observe blasting from a safe location as designated by the blaster;

(3) Examine records of blasting required to be maintained by sections 319.309 and 319.315. However, no municipality, county, or fire protection official shall require a person using explosives or a blaster to surrender such records or a copy of such records to the municipality or fire protection official except as necessary under an investigation of the blaster's violation of a municipal or county permit;

(4) Report suspected violations of section 319.300 to 319.345 to the division of fire safety.

6. Except for any ordinance or order of any county with a charter form of government and with more than one million inhabitants, no provision of a municipal ordinance or county ordinance or order in effect on August 28, 2007, or which may be adopted at a future date by a city or county may preempt, amend, exceed, or conflict with the provisions of sections 319.300 to 319.342 nor any rule promulgated by the state fire marshal under section 319.327. Neither shall any existing or future municipal ordinance or county ordinance or order preempt, amend, exceed, or conflict with the provisions of any statute, regulation, or policy established by:

(1) The United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives;

(2) Chapter 40 of Title 18 of the United States Code, as amended;

(3) The United States Department of Transportation;

(4) The federal Mine Safety and Health Administration; or

(5) The federal Occupational Safety and Health Administration.

7. Subsections 1, 2, and 3, of this section shall not apply to any blasting required by a construction contract with any agency of the state of Missouri, any federal agency, or any political subdivision.

8. Nothing in this section shall preempt the rights and remedies afforded by the general assembly or common law to persons damaged by blasting.

319.343. INAPPLICABILITY OF PROHIBITION ON LOCAL PREEMPTION, WHEN. — The provisions of subsection 6 of section 319.342 in regard to the provisions of sections 319.300 to 319.342 or any rule promulgated by the state fire marshal thereunder shall not apply to an ordinance, order, permit, or regulation in effect as of January 1, 2007, which regulates the use of explosives at the site of a quarry 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. For purposes of this section, quarry shall include any place where rock, ore, stone, or similar materials are excavated for sale or off-premises use. A quarry shall not include the removal or relocation of rock, stone, or earth incidental to the construction of residential, commercial, or industrial buildings. Nothing in this section shall be construed to exempt any person loading or firing explosives in any county governed by this section from meeting the licensing requirements of section 319.306 and paying licensing fees under that section. Neither shall this section be construed to exempt any person using explosives in any county defined by this section from registering with and reporting to the division of fire safety under section 319.318 and paying all registration and reporting fees under that section.

319.345. RULEMAKING AUTHORITY. — Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections

319.300 to 319.345, 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 or annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

Approved July 13, 2007

HB 329 [SCS HCS HB 329]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows a debt adjuster to offer services within the state if acting under a debt management plan

AN ACT to repeal sections 425.010 and 425.020, RSMo, and to enact in lieu thereof four new sections relating to debt adjusters, with a penalty provision.

SECTION
A. Enacting clause.
425.010. Definitions.
425.020. Debt adjusting — penalty.
425.025. Debt management plan may be administered free of charge.
425.027. Blanket bond for debt adjusters required, amount.

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

SECTION A. ENACTING CLAUSE. — Sections 425.010 and 425.020, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 425.010, 425.020, 425.025, and 425.027, to read as follows:

425.010. DEFINITIONS. — As used in this chapter, the following terms mean:

(1) "Debt adjuster", a person who acts or offers to act for a consideration as an intermediary between a debtor and his creditors for the purpose of settling, compounding, or in any wise altering the terms of payment of any debts of the debtor; and to that end **the person** receives money or other property from the debtor, or on behalf of the debtor, for payment to **the debtor's credit by the person**, or distribution among, the creditors **[**of the debtor**] by the person. This definition shall only apply to a person who collects funds from a debtor and delivers such funds to the debtor's creditors**;

(2) **"Debt management plan" or "DMP", a written agreement or contract between a debt adjuster and a debtor whereby the debt adjuster agrees to provide its services as such to the debtor in return for payment by the debtor of no more than reasonable consideration;**

(3) "Debtor", an individual or individuals jointly and severally or jointly or severally indebted**;**

(4) "Reasonable consideration", a fee or contribution to cover the cost of administering a debt management plan, not to exceed:

(a) Fifty dollars for an initial or set-up fee or charge for establishing a DMP; and

(b) The greater of thirty-five dollars per month or eight percent of the amount distributed monthly to creditors under such DMP.

425.020. DEBT ADJUSTING — PENALTY. — Any person who acts or offers to act as a debt adjuster in this state **other than under a debt management plan** is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

425.025. DEBT MANAGEMENT PLAN MAY BE ADMINISTERED FREE OF CHARGE. — Nothing in this chapter shall be construed to prevent any individual or organization from administering a debt management plan free of charge.

425.027. BLANKET BOND FOR DEBT ADJUSTERS REQUIRED, AMOUNT. — A debt adjuster shall provide a blanket bond in the amount of one hundred thousand dollars in favor of the state of Missouri and a copy of the bond shall be filed with the director of the division of finance. The bond shall be for the benefit of any debtor who is damaged by the debt adjuster's breach of the debt management plan or the debt adjuster's failure to properly administer debtor funds collected or disbursed under the debt management plan. The director of the division of finance may investigate any debtor complaint and make claim on a bond for the benefit of a debtor or release the bond to a debtor to make a claim.

Approved June 30, 2007

HB 344 [HB 344]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Specifies that a person or entity who negligently damages or destroys a field crop product will be liable for compensatory damages only

AN ACT to repeal section 537.353, RSMo, and to enact in lieu thereof one new section relating to field crop damage.

SECTION
A. Enacting clause.
537.353. Liability for damage or destruction of field crop products, when — court costs awarded, when.

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

SECTION A. ENACTING CLAUSE. — Section 537.353, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.353, to read as follows:

537.353. LIABILITY FOR DAMAGE OR DESTRUCTION OF FIELD CROP PRODUCTS, WHEN — COURT COSTS AWARDED, WHEN. — 1. Any person or entity who knowingly damages or destroys any field crop product that is grown for personal or commercial purposes, or for testing or research purposes in the context of a product development program in conjunction or coordination with a private research facility, a university, or any federal, state or local government agency, shall be liable for double damages pursuant to this section.

2. **Notwithstanding the provisions of section 537.340, or the provisions of subsection 1 of this section, any person or entity who negligently commits any of the acts described in subsection 1 of this section shall be liable only for compensatory damages.**

3. In awarding damages pursuant to **subsections 1 and 2 of** this section, the courts shall consider the following:

(1) The market value of the crop prior to damage or destruction; and

(2) The actual damages involving production, research, testing replacement and crop development costs directly related to the crop that has been damaged or destroyed.

[3.**]** **4.** In addition, the court may award court costs, including reasonable attorneys fees.

Approved July 13, 2007

HB 351 [HB 351]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Designates the crayfish as the official state invertebrate

AN ACT to amend chapter 10, RSMo, by adding thereto one new section relating to the designation of the official state invertebrate.

SECTION
A. Enacting clause.
10.125. Crayfish, official state invertebrate.

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 10.125, to read as follows:

10.125. CRAYFISH, OFFICIAL STATE INVERTEBRATE. — The crayfish, also called crawfish and crawdad, is selected for, and shall be known as, the official invertebrate of the state of Missouri.

Approved June 21, 2007

HB 352 [HB 352]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Increases bonus points for nonprofit organizations bidding on state contracts and specifies an increase in the per diem awarded to sheltered workshops

AN ACT to repeal sections 34.165 and 178.930, RSMo, and to enact in lieu thereof two new sections relating to state purchasing and printing.

SECTION
A. Enacting clause.
34.165. Commissioner to give bidding preference to the blind, when — authority to make rules — auditor may examine records, when.
178.930. State aid, computation of — records, kept on premises — sheltered workshop per diem revolving fund created.

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

SECTION A. ENACTING CLAUSE. — Sections 34.165 and 178.930, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 34.165 and 178.930, to read as follows:

34.165. COMMISSIONER TO GIVE BIDDING PREFERENCE TO THE BLIND, WHEN — AUTHORITY TO MAKE RULES — AUDITOR MAY EXAMINE RECORDS, WHEN. — 1. In making purchases for this state, its governmental agencies or political subdivisions, the commissioner of administration shall give a bidding preference consisting of a **[**five-point**]** **ten-point** bonus on bids for products and services manufactured, produced or assembled in qualified nonprofit organizations for the blind established pursuant to the provisions of 41 U.S.C. sections 46 to 48c, as amended and in sheltered workshops holding a certificate of approval from the department of elementary and secondary education pursuant to section 178.920, RSMo**, if the participating nonprofit organization provides the greater of two percent or five thousand dollars of the total contract value of bids for purchase not exceeding ten million dollars**.

2. **An affidavit signed by the director or manager and the board president of a participating nonprofit organization shall be provided to the purchasing agency by the contractor at the completion of the contract or within thirty days of the first anniversary of the contract, whichever first occurs, verifying compliance.**

3. The commissioner of administration shall make such rules and regulations regarding specifications, quality standards, time of delivery, performance and other relevant matters as shall be necessary to carry out the purpose of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

[3.**]** **4.** At the request of the commissioner of administration, the state auditor may examine all records, books and data of any qualified nonprofit organization for the blind to determine the costs of manufacturing products or rendering services and the manner and efficiency of production and administration of such nonprofit organization with relation to any product or services purchased by this state, its governmental agencies or political subdivisions and to furnish the results of such examination to the commissioner for appropriate action.

178.930. STATE AID, COMPUTATION OF — RECORDS, KEPT ON PREMISES — SHELTERED WORKSHOP PER DIEM REVOLVING FUND CREATED. — 1. **(1)** Beginning July 1, **[**1999**]** **2007**, and **[**thereafter**]** **until June 30, 2008**, the department of elementary and secondary education shall pay monthly, out of the funds appropriated to it for that purpose, to each sheltered workshop a sum equal to **[**thirteen dollars multiplied by the number of six-hour or longer days worked by handicapped workers**]** **seventy-five dollars for each standard workweek (Monday through Friday) of up to and including thirty hours worked** during the preceding calendar month. **Fifteen dollars shall be paid for each six-hour or longer day worked by a handicapped employee on Saturdays or Sundays.** For each handicapped worker employed by a sheltered workshop for less than **a thirty-hour week or** a six-hour day **on Saturdays or Sundays**, the workshop shall receive a percentage of the **[**thirteen dollars**]** **corresponding amount normally paid** based on the percentage of **[**the six-hour day**]** **time** worked by the handicapped employee.

(2) Beginning July 1, 2008, and until June 30, 2009, the department of elementary and secondary education shall pay monthly, out of the funds appropriated to it for that purpose, to each sheltered workshop a sum equal to eighty-five dollars for each standard workweek (Monday through Friday) of up to and including thirty hours worked during the preceding calendar month. Seventeen dollars shall be paid for each six-hour or longer day worked by a handicapped employee on Saturdays or Sundays. For each handicapped worker employed by a sheltered workshop for less than a thirty-hour week or a six-hour day on Saturdays or Sundays, the workshop shall receive a percentage of the corresponding amount normally paid based on the percentage of time worked by the handicapped employee.

(3) Beginning July 1, 2009, and until June 30, 2010, the department of elementary and secondary education shall pay monthly, out of the funds appropriated to it for that purpose, to each sheltered workshop a sum equal to ninety dollars for each standard workweek (Monday through Friday) of up to and including thirty hours worked during the preceding calendar month. Eighteen dollars shall be paid for each six-hour or longer day worked by a handicapped employee on Saturdays or Sundays. For each handicapped worker employed by a sheltered workshop for less than a thirty-hour week or a six-hour day on Saturdays or Sundays, the workshop shall receive a percentage of the corresponding amount normally paid based on the percentage of time worked by the handicapped employee.

(4) Beginning July 1, 2010, and thereafter, the department of elementary and secondary education shall pay monthly, out of the funds appropriated to it for that purpose, to each sheltered workshop a sum equal to ninety-five dollars for each standard workweek (Monday through Friday) of up to and including thirty hours worked during the preceding calendar month. Nineteen dollars shall be paid for each six-hour or longer day worked by a handicapped employee on Saturdays or Sundays. For each handicapped worker employed by a sheltered workshop for less than a thirty-hour week or a six-hour day on Saturdays or Sundays, the workshop shall receive a percentage of the corresponding amount normally paid based on the percentage of time worked by the handicapped employee.

2. The department shall accept, as prima facie proof of payment due to a sheltered workshop, information as designated by the department, either in paper or electronic format. A statement signed by the president, secretary, and manager of the sheltered workshop, setting forth the dates worked and the number of hours worked each day by each handicapped person employed by that sheltered workshop during the preceding calendar month, together with any other information required by the rules or regulations of the department, shall be maintained at the workshop location.

3. There is hereby created in the state treasury the "Sheltered Workshop Per Diem Revolving Fund" which shall be administered by the commissioner of the department of elementary and secondary education. All moneys appropriated pursuant to subsection 1 of this section shall be deposited in the fund and expended as described in subsection 1 of this section.

4. The balance of the sheltered workshop per diem revolving fund shall not exceed five hundred thousand dollars at the end of each fiscal year and shall be exempt from the provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund. Any unexpended balance in the sheltered workshop per diem revolving fund at the end of each fiscal year exceeding five hundred thousand dollars shall be deposited in the general revenue fund.

Approved June 12, 2007

HB 405 [HCS HB 405]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the State Highway Patrol, removes the residency requirement of the superintendent, and divides the patrol into troops rather than districts

AN ACT to repeal sections 43.010, 43.030, 43.090, 43.110, 43.120, and 43.140, RSMo, and to enact in lieu thereof six new sections relating to the highway patrol, with an emergency clause.

SECTION
A. Enacting clause.
43.010. Definitions.
43.030. Superintendent — qualifications, appointment, powers.
43.090. Patrol offices — clerical force — radio station.
43.110. Travel expenses of patrol, how paid — fees.
43.120. Superintendent to regulate patrol — rank, appointment — officers to act in superintendent's absence — to compile criminal data.
43.140. Members' oaths.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 43.010, 43.030, 43.090, 43.110, 43.120, and 43.140, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 43.010, 43.030, 43.090, 43.110, 43.120, and 43.140, to read as follows:

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**]** **troopers** of the Missouri state highway patrol;

[(3)**]** **(2)** "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;

[(4)**]** **(3)** "Patrol", the Missouri state highway patrol;

[(5)**]** **(4)** "Peace officers", sheriffs, police officers and other peace officers of this state;

[(6)**]** **(5)** "Radio personnel", those employees of the patrol engaged in the construction, operation, and maintenance of the patrol radio system.

43.030. SUPERINTENDENT — QUALIFICATIONS, APPOINTMENT, POWERS. — 1. The superintendent of the Missouri state highway patrol shall be appointed by the governor by and with the advice and consent of the senate. The superintendent shall hold office at the pleasure of the governor. The superintendent shall be a citizen of the United States and a resident taxpaying citizen of this state for a period of three years previous to being appointed as superintendent and shall be at least thirty years of age. The superintendent shall maintain an office **[**and reside**]** in Jefferson City.

2. The superintendent of the Missouri state highway patrol shall:

(1) Have command of the patrol and perform all duties imposed on the superintendent and exercise all of the powers and authority conferred upon the superintendent by the provisions of this chapter and the requirements of chapter 650, RSMo;

(2) Within available appropriations, establish an equitable pay plan for the members of the highway patrol and radio personnel taking into consideration ranks and length of service.

43.090. PATROL OFFICES — CLERICAL FORCE — RADIO STATION. — **[**The board of public buildings shall provide suitable offices for general headquarters at Jefferson City, Missouri, which shall at all times be open and in charge of the superintendent, or some member of the patrol designated by him.**]** The superintendent**[**, with the consent and approval of the commission,**]** shall employ such clerical force, radio operators, and other subordinates, and shall provide such office equipment, stationery, postage supplies, **[**telegraph**]** **communication** and telephone facilities as he **or she** shall deem necessary **for general headquarters at Jefferson City, Missouri**, and shall also provide offices, equipment, stationery, postage, clerical force, and other subordinates for the headquarters of each **[**district**]** **troop or division** of the patrol. The

state highway patrol [radio network] **communications division** shall be under the control of and at the service of the superintendent for such regular and emergency [bulletins] **communications** and service as the superintendent may require [from time to time].

43.110. TRAVEL EXPENSES OF PATROL, HOW PAID — FEES. — The necessary expenses of the members of the patrol in the performance of their duties shall be paid by the state when such members are away from their places of residence or from the [district] **troop or division** to which they are assigned, subject to the approval of the [commission] **superintendent**. No fee shall be allowed to any person or officer for the arrest and transportation of persons arrested and transported by members of the patrol, and no witness fees shall be granted or allowed members of the patrol in criminal cases. Witness fees for members of the patrol in civil cases, and for testifying in federal court, shall be the same as provided by law, and shall be claimed and collected by members of the patrol, and promptly transmitted to the [division of collection in the department of revenue] **fund from which the member or employee is funded**.

43.120. SUPERINTENDENT TO REGULATE PATROL — RANK, APPOINTMENT — OFFICERS TO ACT IN SUPERINTENDENT'S ABSENCE — TO COMPILE CRIMINAL DATA. — 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] **troops** and assign members of the patrol to such [districts] **troops** 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] **troop** 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] **troopers**, 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. **The superintendent shall have the authority to direct members and other employees of the patrol to carry out any public safety duty or service authorized or appropriated by the general assembly.**

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.

[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.]

43.140. MEMBERS' OATHS. — [1.] The members of the patrol, before entering upon the discharge of their duties, shall each take and subscribe an oath to support the constitution and laws of the United States and the state of Missouri and to faithfully demean themselves in office

in the form prescribed by section 11, article VII, of the constitution of this state and they shall each faithfully perform the duties of their respective offices and safely keep and account for all moneys and property received by them.

[2. The superintendent, major, director of radio, each member assigned to duty in the department of finance and statistics and each member assigned to duty in the department of supplies and equipment shall give bond to be approved by the commission. The bond of the superintendent shall be twenty thousand dollars, and for each other member required to be bonded, ten thousand dollars. The cost of furnishing all such bonds shall be paid by the state.**]**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to clarify the authority of the superintendent of the Missouri state highway patrol, 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 9, 2007

HB 426 [SCS HCS HB 426]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Missouri Propane Safety Act

AN ACT to repeal sections 323.010, 323.020, 323.050, 323.060, 323.075, 323.080, 323.090, and 323.110, RSMo, and to enact in lieu thereof twelve new sections relating to the Missouri propane safety act, with a penalty provision.

SECTION

A. Enacting clause.
323.005. Citation of law.
323.010. Definitions.
323.020. Commission to promulgate standards, rulemaking procedure — conformity with national standards.
323.025. Missouri propane gas commission created, powers and duties, members, terms, meetings — executive director — secretary to keep records — surity bond for memebers — annual report.
323.050. Municipal ordinances in conflict with this chapter prohibited.
323.060. Retail distributors to be registered — nonresidents to comply — immunity from liability, when — exemptions.
323.075. Third-party compensation, financial responsibility to be demonstrated for registration, methods — rulemaking authority.
323.080. Registration suspended, grounds — notice — hearing.
323.090. Suspension order may be appealed to circuit court.
323.105. Fee for odorized propane, amount — payment of assessment, when — fund created, use of moneys.
323.110. Penalty for violation — attorney general may bring action — administrative hearing, cease and desist order, penalty, appeal.
323.115. Violations to be referred to the attorney general — civil penalties authorized.

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

SECTION A. ENACTING CLAUSE. — Sections 323.010, 323.020, 323.050, 323.060, 323.075, 323.080, 323.090, and 323.110, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 323.005, 323.010, 323.020, 323.025, 323.050, 323.060, 323.075, 323.080, 323.090, 323.105, 323.110, and 323.115, to read as follows:

323.005. CITATION OF LAW. — This chapter may be cited as the "Missouri Propane Safety Act".

323.010. DEFINITIONS. — For the purposes of this chapter, the following words and phrases shall mean:

(1) **"Affiliated industry", any person or firm engaged in the manufacturing, assembling, and marketing of appliances, containers, and products used in the propane industry, the interstate or intrastate transportation or storage of propane, the installation or design of propane piping systems, or other such affiliation with the commercial, residential, or agricultural use of propane by consumers in Missouri;**

(2) "Commission", the Missouri propane gas commission;

(3) "Compressed natural gas" (CNG), a mixture of hydrocarbon gases and vapors, consisting principally of methane in gaseous form that has been compressed for use as a vehicular fuel;

(4) "Director", the executive director of the commission;

[(2)**] (5)** "Dispensing station", a system of compressors, safety devices, cylinders, piping, fittings, valves, regulators, gauges, relief devices, vents, installation fixtures and other compressed natural gas equipment intended for use in conjunction with motor vehicle fueling by compressed natural gas but does not include a natural gas pipeline located upstream of the inlet of the compressor;

[(3)**] (6)** "Liquefied petroleum gas", any material which is composed predominantly of any of the following hydrocarbons, or mixtures of the same: Propane, propylene, butanes (normal butane or isobutane), and butylenes;

[(4)**] (7)** "Motor vehicle", all vehicles except those operated on rails which are propelled by internal combustion engines and are used or designed for use in the transportation of a person or persons or property**;**

(8) "Person", any individual, group of individuals, partnership, association, cooperative, corporation, or any other entity;

(9) "Producer", the owner of the propane at the time it is recovered at a manufacturing facility, irrespective of the state where production occurs;

(10) "Propane", propane, butane, mixtures of propane and butane, and liquefied petroleum gas, as defined by the National Fire Protection Association Standard 58 for the storage and handling of liquefied petroleum gases;

(11) "Public member", a member of the commission who is a resident of Missouri, is a user of odorized propane, and is not related by the third degree of consanguinity to any retailer or wholesale distributor of propane;

(12) "Retail marketer", a business engaged primarily in selling propane gas, its appliances, and equipment to the ultimate consumer or to retail propane dispensers;

(13) "Wholesaler" or "reseller", a seller of propane who is not a producer and who does not sell propane to the ultimate consumer.

323.020. COMMISSION TO PROMULGATE STANDARDS, RULEMAKING PROCEDURE — CONFORMITY WITH NATIONAL STANDARDS. — 1. The **[**director of the department of agriculture**] commission** shall make, promulgate and enforce regulations setting forth general standards covering the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck, tank trailer, and utilizing liquefied petroleum gases and specifying the odorization of such gases and the degree thereof. The regulations shall be such as are reasonably necessary for the protection of the health, welfare and safety of the public and persons using such materials, and shall be in substantial conformity with the generally accepted standards of safety concerning the same subject matter. Such regulations shall be adopted by the **[**director of the department of agriculture**] commission** pursuant to chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is

promulgated under the authority of this chapter, shall become effective only if the **[**agency**]** **authority** has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to section 536.028, RSMo, if applicable, after January 1, 1999. All rulemaking authority delegated prior to January 1, 1999, is of no force and effect and repealed as of January 1, 1999, however nothing in this act shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to January 1, 1999. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to January 1, 1999.

2. Except as specifically provided in subsection 1 of section 323.060, regulations in substantial conformity with the published standards of the National Board of Fire Underwriters for the design, installation and construction of containers and pertinent equipment for the storage and handling of liquefied petroleum gases as recommended by the National Fire Protection Association shall be deemed to be in substantial conformity with the generally accepted standards of safety concerning the same subject matter.

323.025. MISSOURI PROPANE GAS COMMISSION CREATED, POWERS AND DUTIES, MEMBERS, TERMS, MEETINGS — EXECUTIVE DIRECTOR — SECRETARY TO KEEP RECORDS — SURITY BOND FOR MEMEBERS — ANNUAL REPORT. — 1. There is hereby created within the department of agriculture, the "Missouri Propane Gas Commission", which shall constitute a body corporate and politic, an independent instrumentality exercising essential public functions. The commission shall ensure the administration and enforcement of this chapter and all rules and regulations and orders promulgated thereunder. The powers of the commission shall be vested in nine commissioners, who shall be residents of this state, to be appointed by the governor, by and with the advice and consent of the senate. The commission shall consist of one member representing multi-state retail marketers of propane, one member representing wholesalers or resellers of propane, one member from a county of the third classification representing retail marketers of propane, one member who is affiliated with the Mechanical Contractors Association in Missouri, one member affiliated with the Plumbing Industry Council, one member representing an affiliated industry, one member representing the department of agriculture, one member representing the department of natural resources, and one public member. The commissioners annually shall elect from among their number a chairman and a vice chairman, and such other officers as they may deem necessary.

2. The commissioners shall serve five-year terms, with each term beginning July first and ending on June thirtieth. However, of the commissioners first appointed, two shall be appointed for a term of two years, two shall be appointed for a term of three years, two shall be appointed for a term of four years, and three shall be appointed for a term of five years. Each commissioner appointed thereafter shall be appointed for a term ending five years from the date of expiration of the term for which his predecessor was appointed. A person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. No commissioner appointed by the governor under this section shall serve more than one full term. For those commissioners first appointed, if such commissioner serves a term less than five years, each shall be eligible to serve one full five-year term. Each commissioner shall hold office for the term of such appointment and until such successor has been appointed and qualified.

3. Other than the public member, commission members shall be full-time employees or owners of businesses in the industry or the agency they represent.

4. Notwithstanding the provisions of any other law to the contrary:

(1) No officer or employee of this state shall be deemed to have forfeited or shall forfeit such office or employment by reason of his acceptance of membership on the commission or such service to the commission;

(2) It shall not constitute a conflict of interest for a director, officer, or employee of any company selling propane at retail or wholesale, or engaged in the manufacture, sale, installation, or distribution of propane-use equipment, the contracting of propane piping systems, or in the transportation, storage, or marketing of propane, or any other firm, person, or corporation, to serve as a member of the commission, provided such trustee, director, officer, or employee shall abstain from deliberation, action, and vote by the commission in each instance where the business affiliation or public office association of any such trustee, director, officer, or employee is involved.

5. Commissioners shall receive no compensation for the performance of their duties under this section, but each commissioner shall be reimbursed from the funds of the commission for his or her actual and necessary expenses incurred in carrying out his or her official duties.

6. Meetings shall be held at the call of the chairman or whenever two commissioners so request. Five commissioners of the commission shall constitute a quorum, and any action taken by the commission under the provisions of this chapter may be authorized by resolution approved by a majority, but not less than four of the commissioners present at any regular or special meeting. No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the commission.

7. The commissioners shall employ an executive director. The executive director also shall serve as the secretary for the commission and shall administer, manage, and direct the affairs and business of the commission, subject to the policies, control, and direction of the commissioners. The commission may employ technical experts and such other officers, agents, and employees as deemed necessary, and may fix their qualifications, duties, and compensation.

8. The secretary shall keep a record of the proceedings of the commission and shall be custodian of all books, documents, and papers filed with the commission and of its minute book and seal. The secretary shall have the authority to cause to be made copies of all minutes and other records and documents of the commission and to give certificates, under the seal of the commission, to the effect that such copies are true copies, and all persons dealing with the commission may rely upon such certificates. Resolutions of the persons dealing with the commission need not be published or posted unless the commission shall so direct.

9. Before entering into his or her duties, each commissioner of the commission shall execute a surety bond for fifty thousand dollars, and the director shall execute a surety bond for one hundred thousand dollars or, in lieu thereof, the chairman of the commission shall execute a blanket bond covering all members, the director, and the employees or other officers of the commission. Each surety bond shall be conditioned on the faithful performance of the duties of the office or offices covered, shall be executed by a surety company authorized to transact business in this state as surety, shall be approved by the attorney general, and shall be filed in the office of the secretary of state. The cost of each such bond shall be paid by the commission.

10. At the beginning of each fiscal year, the commission shall prepare and submit for public comment a budget plan, including the probable costs of all programs, projects, and contracts and a recommended rate of assessment as may be necessary to cover such costs. Publication of the proposed budget in the Missouri Register for at least thirty days shall constitute appropriate public notice. The commission shall approve or modify the budget following the public comment period.

11. The commission shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the department of agriculture, the governor, and the general assembly. Each report shall set forth a complete operating and financial statement for the commission during the fiscal year it covers. At least once in each year, an independent certified public accountant shall audit the books and accounts of the commission.

12. The commission shall have the power necessary to:

(1) Sue and be sued in its own name;

(2) Have an official seal and alter the same at pleasure;

(3) Have perpetual succession;

(4) Maintain an office at such place or places within this state as the commission may designate;

(5) Conduct hearings and mediate disputes arising from the enforcement of this chapter;

(6) Disperse funds for its lawful activities and fix salaries and wages of its employees; and

(7) Exercise all powers necessary or convenient to accomplish its purposes.

13. The commission shall have the following duties:

(1) Develop comprehensive plans and programs for the prevention, control and abatement of propane-related accidents in Missouri;

(2) Mandate a comprehensive certification training program based on the department of agriculture's existing liquified petroleum gas certification and training program;

(3) Promulgate by rule by August 28, 2010, a statewide code for the installation of propane-related equipment;

(4) Advise, consult, and cooperate with other agencies of the state, the federal government, other states, and interstate agencies, as well as with affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter;

(5) Accept gifts, contributions, donations, loans and grants from the federal government and from other sources, public or private, for carrying out any of its functions. Such funds shall not be expended for other than the purposes for which provided;

(6) Exercise general supervision of the administration and enforcement of this chapter and all rules, regulations, and orders promulgated hereunder;

(7) Suspend any registration filed under this chapter granted to persons or companies doing business under the requirements of this chapter, if such registrant is in violation of any provision of this chapter;

(8) Represent the state of Missouri in all matters pertaining to this chapter, including negotiation of interstate compact agreements;

(9) To do any act necessary or convenient to the exercise of the powers granted by or reasonably implied from the provisions of this chapter.

14. The director may make such investigations as the director deems necessary to carry out effectively the director's responsibilities under this chapter or to determine whether a person has engaged or is engaging in acts or practices that constitute a violation of any provision of this chapter or of any regulation or plan issued under this chapter. For the purpose of any investigation, the director is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in this state. In case of contumacy by or refusal to obey a subpoena issued to any person, the director may seek enforcement thereof in the circuit court of proper venue.

15. The Missouri propane gas commission is hereby authorized to regulate the inspection of and provide specifications for propane as provided in this section.

16. A commissioner shall be removed from office by the governor for misfeasance, malfeasance, or willful neglect of duty or other cause after notice and public hearing, unless such notice or hearing shall be expressly waived in writing.

17. The director or any designated employee shall have free access, during reasonable hours, to any premises in the state where an installation covered by this chapter is being constructed, or is being installed, for the purpose of ascertaining whether said installation is being constructed and installed in accordance with the applicable provisions.

323.050. MUNICIPAL ORDINANCES IN CONFLICT WITH THIS CHAPTER PROHIBITED. — No city, town, village, fire district, or other political subdivision shall adopt or enforce any ordinance or regulation in conflict with the provisions of this chapter, or with the regulations promulgated under section 323.020. **Nothing in this section shall prohibit any political subdivision from establishing a licensing requirement for persons relating to the installation, repair, replacement, or maintenance of liquified petroleum gas and all other fuel gas piping systems.**

323.060. RETAIL DISTRIBUTORS TO BE REGISTERED — NONRESIDENTS TO COMPLY — IMMUNITY FROM LIABILITY, WHEN — EXEMPTIONS. — 1. No person or company shall engage in this state in the business of selling at retail of liquefied petroleum gas or in the business of handling or transportation of liquefied petroleum gas over the highways of this state without having first registered with the **[**director of the department of agriculture**]** **commission**. Registration must be in the appropriate class as determined by the director.

2. No person or company shall engage in this state in the business of installing, modifying, repairing, or servicing equipment and appliances for use with liquefied petroleum gas without having first registered with the **[**director of the department of agriculture**]** **commission**. Registration must be in the appropriate classes as determined by the director.

3. Nonresidents of the state of Missouri desiring to engage in the business of distribution of liquefied petroleum gases at retail, or the business of installing, repairing or servicing equipment and appliances for use of liquefied petroleum gases, shall comply with sections **[**323.010**]** **323.005** to 323.110 and rules and regulations promulgated hereunder.

4. No person registered pursuant to this section and engaged in this state in the business of selling at retail of liquefied petroleum gas or in the business of handling or transportation of liquefied petroleum gas over the highways of this state shall be liable for actual or punitive civil damages for injury to persons or property that result from any occurrence caused by the installation, modification, repair, or servicing of equipment and appliances for use with liquefied petroleum gas by any other person unless such registered person had received written notification or had other actual knowledge of such installation, modification, repair, or servicing of equipment and appliances and failed to inspect such installation, modification, repair, or servicing of equipment and appliances within thirty days after receipt of such notice or actual knowledge.

5. Nothing in this section is intended to limit the liability of any person for any damages that arise directly from the gross negligence or willful or wanton acts of such person.

6. All utility operations of public utility companies subject to the safety jurisdiction of the public service commission are exempt from the provisions of this section.

7. Persons who only sell liquefied petroleum gas in containers having a capacity of fifty pounds or less that have been filled by another person registered under this chapter are exempt from the provisions of this **[**section**]** **chapter**.

323.075. THIRD-PARTY COMPENSATION, FINANCIAL RESPONSIBILITY TO BE DEMONSTRATED FOR REGISTRATION, METHODS — RULEMAKING AUTHORITY. — 1. Every person required to be registered under subsection 1 of section 323.060 shall demonstrate

financial responsibility for compensating third parties for bodily injury and property damage caused by the release of liquefied petroleum gas. The minimum amount of financial responsibility shall be one million dollars per occurrence with an annual aggregate of two million dollars.

2. A person may demonstrate financial responsibility required in subsection 1 of this section either by self insurance or by being insured in the manner set forth in this section.

3. A registrant may demonstrate financial responsibility by obtaining liability insurance in the required amounts as an endorsement to an existing policy or as a separate policy issued by an insurance company authorized by the department of insurance to transact the business of insurance in the state of Missouri. The endorsement or policy shall include a requirement that the insurance company deliver a copy of any final notice of cancellation to the **[**department of agriculture**] commission** at the same time such a notice is provided to the insured. A copy of the certificate of insurance evidencing such coverage shall accompany any original application. The original insurance policy, any relevant endorsements, and the certificate of insurance must be made available upon request for examination and copying by the **[**department of agriculture**] commission**.

4. The **[**director**] commission** may promulgate regulations governing acceptable forms of self insurance.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

[6. The provisions of this section shall become effective on January 1, 2006.**]**

323.080. REGISTRATION SUSPENDED, GROUNDS — NOTICE — HEARING. — 1. The **[**director of the department of agriculture**] commission** may suspend any registration filed hereunder if the registrant violates or fails to comply with any provision of this chapter or the rules and regulations promulgated hereunder until the violation or failure is corrected. It is unlawful to perform any of the acts for which registration is required while a suspension is in effect.

2. Before suspension of any registration, written notice shall be given to the registrant setting forth the action contemplated and the reasons therefor. The notice shall state the time and place for a hearing on the contemplated action and shall be sent by registered mail to the registrant at least ten days before the hearing. At the hearing the registrant may present evidence as he deems fit. Upon suspension of a registration, notice shall be sent by registered mail to the last known address of the registrant.

323.090. SUSPENSION ORDER MAY BE APPEALED TO CIRCUIT COURT. — Any person who is aggrieved by a suspension order of the **[**director of the department of agriculture**] commission** may appeal from the suspension order within ten days after the mailing of the notice of suspension. The appeal shall be to the circuit court of the county in which such person resides or has his principal place of business. The circuit court shall review the record, permit the presentation of any additional evidence as the parties thereto may desire, determine whether the evidence supports the order of suspension and enter a judgment sustaining or overruling the suspension order.

323.105. FEE FOR ODORIZED PROPANE, AMOUNT — PAYMENT OF ASSESSMENT, WHEN — FUND CREATED, USE OF MONEYS. — 1. The commission shall set a fee for odorized

propane in the state and shall set the initial assessment at no greater than one-tenth of one cent per gallon. Thereafter, annual assessments shall be sufficient to cover the costs of the plans and programs of the commission. The assessment shall not be greater than twenty-five hundredths of one cent per gallon of odorized propane. The assessment may not be raised by more than one-tenth of one cent per gallon annually.

2. The owner of propane immediately prior to odorization in this state or the owner of odorized propane at the time of import into this state shall be responsible for the payment of the assessment on the volume of propane at the time of import or odorization, whichever is later. Assessments shall be remitted to the commission on a monthly basis by the twenty-fifth of the month following the month of collection. Nonodorized propane shall not be subject to assessment until odorized. For purposes of collection, all propane either odorized at terminal locations in Missouri for delivery to either in-state storage locations or propane odorized at terminal locations outside Missouri and delivered to Missouri as identified on a bill of lading, shall be considered as assessable.

3. The commission may, by rule, establish an alternative means to collect the assessment if another means is found to be more efficient and effective. The commission may by rule establish a late payment charge and rate of interest to be imposed on any person who fails to remit any amount due under this chapter.

4. The commission shall set fees for permits, licenses, and certificates required by this chapter. Fees shall be determined by the commission to provide sufficient funds for the operation of the commission and its programs and shall be set by rule promulgated in accordance with the provisions of section 323.020. The commission may alter the fee schedule once every two years. Any funds collected under this section shall be deposited in the propane inspection fund.

5. There is hereby created the "Propane Inspection Fund", which shall consist of all funds collected under this section. The fund shall be used solely by the commission for the administration and enforcement of this chapter. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. Any interest and moneys earned on investments of moneys in the fund shall be credited to the fund.

6. No funds collected by the commission shall be used in any manner for influencing legislation or for campaign contributions, except that the commission may recommend to the director changes in this act or other statutes that would further the purpose of the commission.

323.110. PENALTY FOR VIOLATION — ATTORNEY GENERAL MAY BRING ACTION — ADMINISTRATIVE HEARING, CEASE AND DESIST ORDER, PENALTY, APPEAL. — 1. Any person found in violation of any provision of sections **[**323.010**]** **323.005** to 323.210 shall be deemed guilty of a class A misdemeanor. The prosecutor of each county in which a violation occurs may bring an action hereunder. But if a prosecutor declines to bring such action, then the attorney general may bring an action instead, and in so doing shall have all the powers and jurisdiction of such prosecutor.

2. Any person who is found, upon investigation by the **[**department of agriculture**]** **commission**, to be in possible violation of sections **[**323.010**]** **323.005** to 323.210 shall be notified by certified mail of the facts constituting such violation, and shall be afforded an opportunity by the **[**director**]** **commission** to explain such facts at an informal hearing to be conducted within fourteen days of such notification. In the event that such person fails to timely respond to such notification or upon unsuccessful resolution of any issues relating to an alleged violation, such person may be summoned to a formal administrative hearing before **[**a department of agriculture hearing officer**]** **the commission**. Said hearing shall be conducted in conformance with chapter 536, RSMo. If any person is found to have committed one or more violations of sections **[**323.010**]** **323.005** to 323.210, such person may be ordered to cease and

desist from such violation, and the order shall be enforceable in any circuit court of competent jurisdiction, and, in addition, the person may be required to pay a penalty of not more than five hundred dollars per violation and five hundred dollars for each day such violation continues. Any party to such hearing aggrieved by a determination of a hearing officer may, in accordance with chapter 536, RSMo, appeal to the circuit court of the county in which such party resides, or if the party is the state, in Cole County.

323.115. VIOLATIONS TO BE REFERRED TO THE ATTORNEY GENERAL — CIVIL PENALTIES AUTHORIZED. — 1. Violations of this chapter may be referred to the attorney general for appropriate action, except that nothing shall be construed as requiring the commission to refer to the attorney general violations of this chapter whenever the commission believes that the administration and enforcement of the regulations would be served adequately by administrative action under subsection 2 of this section or suitable written notice or warning to any person committing the violations.

2. Any person who fails or refuses to pay, collect, or remit any assessment or fee required of the person by this chapter may be assessed a civil penalty by the commission of not less than five hundred dollars nor more than five thousand dollars for each violation. Each violation shall be a separate offense. In addition, or in lieu of such civil penalty, the commission may issue an order requiring the person to cease-and-desist from continuing the violation. No penalty shall be assessed nor a cease-and-desist order issued unless the person is given notice and opportunity for a hearing before the commission with respect to the violation. The order of the commission assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the person affected by the order files a petition for review under chapter 536, RSMo. Any person who fails to obey a cease-and-desist order after it has become final shall be subject to a civil penalty assessed by the commission, after an opportunity for hearing before the commission, of not more than five hundred dollars for each offense. Each day that the failure continues shall be deemed a separate offense. If any person fails to pay an assessment of a civil penalty after it has become a final order, the commission shall refer the matter to the attorney general for recovery of the amount assessed in any appropriate circuit court of the state. In suchaction, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

Approved July 13, 2007

HB 428 [HB 428]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Creates the State Fair Escrow Fund for expenses associated with the Missouri State Fair and off-season events

AN ACT to amend chapter 262, RSMo, by adding thereto one new section relating to the state fair escrow fund.

SECTION
A. Enacting clause.
262.261. State fair escrow fund created, use of moneys.

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

SECTION A. ENACTING CLAUSE. — Chapter 262, RSMo, is amended by adding thereto one new section, to be known as section 262.261, to read as follows:

262.261. STATE FAIR ESCROW FUND CREATED, USE OF MONEYS. — 1. The "State Fair Escrow Fund" is hereby created. Such fund shall be held and maintained by the state fair commission. All ticket sales income pertaining to the Missouri state fair grandstand shows, arena events, and carnival rides shall be deposited into the state fair escrow fund. The fund may receive moneys for specific event purposes, including both off-season and fair events. Such fund may receive gifts, grants, contributions, and funds or benefits from any other source or sources, such as sponsorships and auction proceeds. The money in the state fair escrow fund may be used for paying entertainers, carnival contractors, workers, and other event promoters and may include expenses and equipment.

2. The state fair escrow fund shall be established and operated by the state fair in a separate account and under the direct control of the state fair director and the state fair commission. The provisions of section 30.170, RSMo, to the contrary notwithstanding, the money in the state fair escrow fund shall be retained outside the control of the state treasury. The provisions of section 33.080, RSMo, to the contrary notwithstanding, the money in the state fair escrow fund shall be retained for the purposes specified in this section and shall not revert or be transferred to general revenue. The state fair shall keep accurate records of the source of money deposited in the state fair escrow fund and shall allocate funds for the appropriate expenditures.

3. The unexpended balance in the state fair escrow fund at the end of each calendar year shall not exceed the preceding year's expenditures as they are described in subsection 1 of this section.

Approved May 31, 2007

HB 431 [SCS HCS HB 431]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the automatic dissolution of a limited liability company after the withdrawal of the last remaining member with certain exceptions

AN ACT to repeal sections 347.137, 351.015, and 351.459, RSMo, and to enact in lieu thereof three new sections relating to business organizations.

SECTION

A. Enacting clause.
347.137. Dissolution of company, events — notice of winding up.
351.015. Definitions.
351.459. Definitions — business combinations, requirements — permitted combinations — exceptions.

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

SECTION A. ENACTING CLAUSE. — Sections 347.137, 351.015, and 351.459, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 347.137, 351.015, and 351.459, to read as follows:

347.137. DISSOLUTION OF COMPANY, EVENTS — NOTICE OF WINDING UP. — 1. A domestic limited liability company shall be dissolved upon the occurrence of any of the following:

(1) Upon the happening of the events specified in the operating agreement or in the articles of organization;

(2) Upon the written consent of all members;

(3) Except as otherwise provided in the operating agreement, an event of withdrawal of a member, if a majority, by number, of the remaining members agree within ninety days after the occurrence of the event of withdrawal to dissolve the limited liability company;

(4) **[**An event of withdrawal with respect to the sole remaining member**] At any time there are no members; provided, that the limited liability company is not dissolved and is not required to be wound up if:**

(a) Unless otherwise provided in the operating agreement, within ninety days or such other period as is provided for in the operating agreement after the occurrence of the event that terminated the continued membership of the last remaining member, the personal representative, statutory or otherwise, of the last remaining member agrees in writing to continue the limited liability company and to the admission of such personal representative of such member or its nominee or designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member; provided, that the operating agreement may provide that the personal representative, statutory or otherwise, of the last remaining member shall be obligated to agree in writing to continue the limited liability company and to the admission of such personal representative of such member or its nominee or designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member; or

(b) A member is admitted to the limited liability company in the manner provided for in the operating agreement, effective as of the occurrence of the event that terminated the continued membership of the last remaining member, within ninety days or such other period as is provided for in the limited liability company agreement after the occurrence of the event that terminated the continued membership of the last remaining member, under a provision of the operating agreement that specifically provides for the admission of a member to the limited liability company after there is no longer a remaining member of the limited liability company;

(5) Entry of a decree of dissolution under section 347.143; or

(6) When the limited liability company is not the surviving entity in a merger or consolidation.

2. As soon as possible following the occurrence of any of the events specified in subdivisions (1) to (4) of subsection 1 of this section effecting the dissolution of the limited liability company, the limited liability company shall file a notice of winding up with the secretary which discloses the dissolution of the limited liability company and the commencement of winding up of its business and affairs.

351.015. DEFINITIONS. — As used in this chapter, unless the context otherwise requires:

(1) "Articles of incorporation" includes the original articles of incorporation and all amendments thereto, and includes articles of merger or consolidation;

(2) "Authorized shares" means the aggregate number of shares of stock of all classes, whether with or without par value, which the corporation is authorized to issue. Shares of its own stock belonging to a corporation shall be deemed to be "issued" shares but not "outstanding" shares;

(3) "Certificate of stock" means a written instrument signed by or bearing the facsimile signature of the proper corporate officers, as required by this chapter, evidencing the fact that the person therein named is the holder of record of the share or shares therein described;

(4) "Control share acquisition" means the acquisition, directly or indirectly, by any person of ownership of, or the power to direct the exercise of voting power with respect to, issued and outstanding control shares. For the purposes of this chapter, shares acquired within ninety days

of any acquisition of shares or shares acquired pursuant to a plan to make a control share acquisition are considered to have been acquired in the same acquisition. For the purposes of this chapter, a person who acquires shares in the ordinary course of business for the benefit of others in good faith and not for the purpose of circumventing this chapter has voting power only of shares in respect of which that person would be able to exercise or direct the exercise of votes without further instruction from others. The acquisition of any shares of an issuing public corporation does not constitute a control share acquisition if the acquisition is consummated in any of the following circumstances:

(a) Prior to June 13, 1984;

(b) Pursuant to a contract in existence prior to June 13, 1984;

(c) Pursuant to a will or other testamentary disposition, the laws of descent and distribution or by intervivos gift where such gift is made in good faith and not for the purpose of circumventing section 351.407;

(d) Pursuant to a public offering, a private placement, or any other issuance of shares by an issuing public corporation;

(e) By, on behalf of, or pursuant to any benefit or other compensation plan or arrangement of an issuing public corporation;

(f) Pursuant to the conversion of debt securities into shares of an issuing public corporation under the terms of such debt securities;

(g) Pursuant to a binding contract, other than any contract created by, pursuant to, or in connection with a tender offer, whereby the holders of shares representing at least two-thirds of the voting power of an issuing public corporation, such holders acting simultaneously, agreed to sell such shares to any person;

(h) Pursuant to the satisfaction of a pledge or other security interest created in good faith and not for the purpose of circumventing section 351.407;

(i) Pursuant to a merger or consolidation effected in compliance with sections 351.410 to 351.458 if the issuing public corporation is a party to the agreement of merger or consolidation;

(j) Pursuant to a binding contract or other arrangement with any individual, foreign or domestic corporation (whether or not for profit), partnership, limited liability company, unincorporated society or association, or other entity which, at any time within one year prior to the acquisition in question, owned shares representing more than fifty percent of the voting power of the issuing public corporation;

(k) By or from any person whose shares have been previously accorded voting rights pursuant to section 351.407; provided, the acquisition entitles the person making the acquisition, directly or indirectly, alone or as a part of a group, to exercise or direct the exercise of voting power of the corporation in the election of directors within a range of the voting power not in excess of the range of voting power associated with the shares to which voting rights have been previously accorded;

(5) "Control shares" means shares that, except for this chapter, would have voting power with respect to shares of an issuing public corporation that, when added to all other shares of the issuing public corporation owned by a person or in respect to which that person may exercise or direct the exercise of voting power, would entitle that person, immediately after acquisition of the shares, directly or indirectly, alone or as a part of a group, to exercise or direct the exercise of the voting power of the issuing public corporation in the election of directors within any of the following ranges of voting power:

(a) One-fifth or more but less than one-third of all voting power;

(b) One-third or more but less than a majority of all voting power;

(c) A majority or more of all voting power; provided, however, that shares which the person or the group have owned or of which the person or the group could have exercised or directed the voting for more than ten years shall not be deemed to be "control shares" and shall not be aggregated for the purpose of determining inclusion within the above-stated ranges;

(6) "Corporation" or "domestic corporation" includes corporations organized under this chapter or subject to some or all of the provisions of this chapter except a foreign corporation;

(7) "Foreign corporation" means a corporation for profit organized under laws other than the laws of this state;

(8) "Incorporator" means a signer of the original articles of incorporation;

(9) "Interested shares" means the shares of an issuing public corporation in respect of which any of the following persons may exercise or direct the exercise of the voting power of the corporation in the election of directors:

(a) An acquiring person or member of a group with respect to a control share acquisition;

(b) Any officer of the issuing public corporation elected or appointed by the directors of the issuing public corporation;

(c) Any employee of the issuing public corporation who is also a director of such corporation;

(10) "Issuing public corporation"**, unless the articles of incorporation provide otherwise as to the applicability of this section,** means **a corporation that has a class of voting stock registered with the securities and exchange commission under section 12 of the Exchange Act and is** either **(a)** a corporation incorporated under the laws of the state of Missouri, or, **(b)** subdivision (2) of section 351.690 notwithstanding, any insurance company organized pursuant to the laws of Missouri and doing business under the provisions of chapter 376, RSMo, provided that the bylaws of such insurance company expressly state that such insurance company shall, for the purposes of this chapter, be included within the definition of "issuing public corporation"**[**, that has:

(a) One hundred or more shareholders;

(b) Its principal place of business, its principal office, or substantial assets within Missouri; and

(c) One of the following:

a. More than ten percent of its shareholders resident in Missouri;

b. More than ten percent of its shares owned by Missouri residents; or

c. Ten thousand shareholders resident in Missouri. The residence of a shareholder is presumed to be the address appearing in the records of the corporation. Shares held by banks (except as trustee or guardian), brokers or nominees shall be disregarded for purposes of calculating the percentages or numbers described above**]**;

(11) "Net assets", for the purpose of determining the right of a corporation to purchase its own shares and of determining the right of a corporation to declare and pay dividends and the liabilities of directors therefor, shall not include shares of its own stock belonging to a corporation;

(12) "Paid-in surplus" means all that part of the consideration received by the corporation for, or on account of, all shares issued which does not constitute stated capital minus such formal reductions from said sum as may have been effected in a manner permitted by this chapter;

(13) "Person" includes, without limitation, an individual, a foreign or domestic corporation whether not for profit or for profit, a partnership, a limited liability company, an unincorporated society or association, two or more persons having a joint or common interest, or any other entity;

(14) "Registered office" means that office maintained by the corporation in this state, the address of which is on file in the office of the secretary of state;

(15) "Shareholder" means one who is a holder of record of shares in a corporation;

(16) "Shares" are the units into which the shareholders' rights to participate in the control of the corporation, in its surplus or profits, or in the distribution of its assets, are divided;

(17) "Stated capital" means at any particular time the sum of:

(a) The par value of all shares then issued having a par value; and

(b) The consideration received by the corporation for all shares then issued without par value except such part thereof as may have been allocated otherwise than to stated capital in a manner permitted by law; and

(c) Such amounts not included in paragraphs (a) and (b) of this subdivision as may have been transferred to the stated capital account of the corporation, whether upon the issue of shares as a share dividend or otherwise, minus such formal reductions from said sum as may have been effected in a manner permitted by this chapter;

(18) "Subscriber" means one who subscribes for shares in a corporation, whether before or after incorporation.

351.459. DEFINITIONS — BUSINESS COMBINATIONS, REQUIREMENTS — PERMITTED COMBINATIONS — EXCEPTIONS. — 1. For the purposes of this section, the following terms mean:

(1) "Affiliate", a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a specified person;

(2) "Announcement date", when used in reference to any business combination, means the date of the first public announcement of the final, definitive proposal for such business combination;

(3) "Associate", when used to indicate a relationship with any person, means any corporation or organization of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of voting stock, any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and any relative or spouse of such person, or any relative of such spouse, who has the same home as such person;

(4) "Beneficial owner", when used with respect to any stock, means a person that:

(a) Individually or with or through any of its affiliates or associates, beneficially owns such stock, directly or indirectly; or

(b) Individually or with or through any of its affiliates or associates, has the right to acquire such stock, whether such right is exercisable immediately or only after the passage of time, pursuant to any agreement, arrangement or understanding, whether or not in writing, or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise; provided, however, that a person shall not be deemed the beneficial owner of stock tendered pursuant to a tender or exchange offer made by such person or any of such person's affiliates or associates until such tendered stock is accepted for purchase or exchange; or the right to vote such stock pursuant to any agreement, arrangement or understanding, whether or not in writing; provided, however, that a person shall not be deemed the beneficial owner of any stock under this item if the agreement, arrangement or understanding to vote such stock arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made in accordance with the applicable rules and regulations under the Exchange Act and is not then reportable on a Schedule 13D under the Exchange Act, or any comparable or successor report; or

(c) Has any agreement, arrangement or understanding, whether or not in writing, for the purpose of acquiring, holding, voting, except voting pursuant to a revocable proxy or consent as described in paragraph (b) of this subdivision, or disposing of such stock with any other person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, such stock;

(5) "Business combination", when used in reference to any **[**resident**]** domestic corporation and any interested shareholder of such **[**resident**]** domestic corporation, means:

(a) Any merger or consolidation of such **[**resident**]** domestic corporation or any subsidiary of such **[**resident**]** domestic corporation with such interested shareholder or any other corporation, whether or not itself an interested shareholder of such **[**resident**]** domestic corporation, which is, or after such merger or consolidation would be, an affiliate or associate of such interested shareholder;

(b) Any sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction or a series of transactions to or with such interested shareholder or any affiliate or associate of such interested shareholder of assets of such **[**resident**]** domestic corporation or any subsidiary of such **[**resident**]** domestic corporation having an aggregate market value equal to ten percent or more of the aggregate market value of all the assets, determined on a consolidated basis, of such **[**resident**]** domestic corporation, having an aggregate market value equal to ten percent or more of the aggregate market value of all the outstanding stock of such **[**resident**]** domestic corporation, or representing ten percent or more of the earning power or net income, determined on a consolidated basis, of such **[**resident**]** domestic corporation;

(c) The issuance or transfer by such **[**resident**]** domestic corporation or any subsidiary of such **[**resident**]** domestic corporation, in one transaction or a series of transactions, of any stock of such **[**resident**]** domestic corporation or any subsidiary of such **[**resident**]** domestic corporation which has an aggregate market value equal to five percent or more of the aggregate market value of all the outstanding stock of such **[**resident**]** domestic corporation to such interested shareholder or any affiliate or associate of such interested shareholder except pursuant to the exercise of warrants or rights to purchase stock offered, or a dividend or distribution paid or made, pro rata to all shareholders of such **[**resident**]** domestic corporation;

(d) The adoption of any plan or proposal for the liquidation or dissolution of such **[**resident**]** domestic corporation proposed by, or pursuant to any agreement, arrangement or understanding, whether or not in writing, with such interested shareholder or any affiliate or associate of such interested shareholder;

(e) Any reclassification of securities, including, without limitation, any stock split, stock dividend, or other distributions of stock in respect of stock, or any reverse stock split, or recapitalization of such **[**resident**]** domestic corporation, or any merger or consolidation of such **[**resident**]** domestic corporation with any subsidiary of such **[**resident**]** domestic corporation, or any other transaction, whether or not with or into or otherwise involving such interested shareholder, proposed by, or pursuant to any agreement, arrangement or understanding, whether or not in writing, with such interested shareholder or any affiliate or associate of such interested shareholder, which has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of any class or series of voting stock or securities convertible into voting stock of such **[**resident**]** domestic corporation or any subsidiary of such **[**resident**]** domestic corporation which is directly or indirectly owned by such interested shareholder or any affiliate or associate of such interested shareholder, except as a result of immaterial changes due to fractional share adjustments; or

(f) Any receipt by such interested shareholder or any affiliate or associate of such interested shareholder of the benefit, directly or indirectly, except proportionately as a shareholder of such **[**resident**]** domestic corporation, of any loans, advances, guarantees, pledges or other financial assistance or any tax credits or other tax advantages provided by or through such **[**resident**]** domestic corporation;

(6) "Common stock", any stock other than preferred stock;

(7) "Consummation date", with respect to any business combination, means the date of consummation of such business combination, or, in the case of a business combination as to which a shareholder vote is taken, the later of the business day prior to the vote or twenty days prior to the date of consummation of such business combination;

(8) "Control", including the terms "controlling", "controlled by" and "under common control with", the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting stock, by contract, or otherwise. A person's beneficial ownership of ten percent or more of a corporation's outstanding voting stock shall create a presumption that such person has control of such corporation. Notwithstanding the foregoing, a person shall not be deemed to have control of a corporation if such person holds voting stock, in good faith and not for the purpose of

circumventing this section, as an agent, bank, broker, nominee, custodian or trustee for one or more beneficial owners who do not individually or as a group have control of such corporation;

(9) **"Domestic corporation", a corporation incorporated under the laws of the state of Missouri;**

(10) "Exchange Act", the act of Congress known as the "Securities Exchange Act of 1934", as the same has been or hereafter may be amended from time to time;

[(10)**]** **(11)** "Interested shareholder", when used in reference to any **[**resident**]** domestic corporation, any person, other than such **[**resident**]** domestic corporation or any subsidiary of such **[**resident**]** domestic corporation, that:

(a) Is the beneficial owner, directly or indirectly, of twenty percent or more of the outstanding voting stock of such **[**resident**]** domestic corporation; or

(b) Is an affiliate or associate of such **[**resident**]** domestic corporation and at any time within the five-year period immediately prior to the date in question was the beneficial owner, directly or indirectly, of twenty percent or more of the then outstanding voting stock of such **[**resident**]** domestic corporation; provided that, for the purpose of determining whether a person is an interested shareholder, the number of shares of voting stock of such **[**resident**]** domestic corporation deemed to be outstanding shall include shares deemed to be beneficially owned by the person through application of subdivision (4) of this subsection but shall not include any other unissued shares of voting stock of such **[**resident**]** domestic corporation which may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise;

[(11)**]** **(12)** "Market value", when used in reference to stock or property of any **[**resident**]** domestic corporation, means:

(a) In the case of stock, the highest closing sale price during the thirty-day period immediately preceding the date in question of a share of such stock on the composite tape for New York stock exchange listed stocks, or, if such stock is not quoted on such composite tape or if such stock is not listed on such exchange, on the principal United States securities exchange registered under the Exchange Act on which such stock is listed, or, if such stock is not listed on any such exchange, the highest closing bid quotation with respect to a share of such stock during the thirty-day period preceding the date in question on the National Association of Securities Dealers, Inc., Automated Quotations System or any system then in use, or if no such quotations are available, the fair market value on the date in question of a share of such stock as determined by the board of directors of such **[**resident**]** domestic corporation in good faith; and

(b) In the case of property other than cash or stock, the fair market value of such property on the date in question as determined by the board of directors of such **[**resident**]** domestic corporation in good faith;

[(12)**]** **(13)** "Preferred stock", any class or series of stock of a **[**resident**]** domestic corporation which under the bylaws or articles of incorporation of such **[**resident**]** domestic corporation is entitled to receive payment of dividends prior to any payment of dividends on some other class or series of stock, or is entitled in the event of any voluntary liquidation, dissolution or winding up of the **[**resident**]** domestic corporation to receive payment or distribution of a preferential amount before any payments or distributions are received by some other class or series of stock;

[(13) "Resident domestic corporation", a corporation incorporated under the laws of the state of Missouri that has:

(a) One hundred or more shareholders;

(b) Its principal place of business, its principal office, or substantial assets within Missouri; and

(c) One of the following:

a. More than ten percent of its shareholders resident in Missouri;

b. More than ten percent of its shares owned by Missouri residents; or

c. Ten thousand shareholders resident in Missouri.

For purposes of this section, reference to shareholders or ownership of shares shall refer to ownership of voting stock; the residence of a partnership, unincorporated association, trust or similar organization shall be the principal office of such organization; the residence of a shareholder shall otherwise be presumed to be the address appearing in the records of the corporation; and shares held by banks (except as trustee or guardian), brokers or nominees shall be disregarded for purposes of calculating the percentages or numbers described above. No resident domestic corporation, which is organized under the laws of this state, shall cease to be a resident domestic corporation by reason of events occurring or actions taken while such resident domestic corporation is subject to the provisions of this section;**]**

(14) "Stock" means:

(a) Any stock or similar security, any certificate of interest, any participation in any profit-sharing agreement, any voting trust certificate, or any certificate of deposit for stock; and

(b) Any security convertible, with or without consideration, into stock, or any warrant, call or other option or privilege of buying stock without being bound to do so, or any other security carrying any right to acquire, subscribe to or purchase stock;

(15) "Stock acquisition date", with respect to any person and any **[**resident**]** domestic corporation, means the date that such person first becomes an interested shareholder of such **[**resident**]** domestic corporation;

(16) "Subsidiary" of any **[**resident**]** domestic corporation, means any other corporation of which voting stock, having a majority of the outstanding voting stock of such other corporation, is owned, directly or indirectly, by such **[**resident**]** domestic corporation;

(17) "Voting stock", shares of capital stock of a corporation entitled to vote generally in the election of directors.

2. Notwithstanding anything to the contrary contained in this section, except the provisions of subsection 4 of this section, no **[**resident**]** domestic corporation shall engage in any business combination with any interested shareholder of such **[**resident**]** domestic corporation for a period of five years following such interested shareholder's stock acquisition date unless such business combination or the purchase of stock made by such interested shareholder on such interested shareholder's stock acquisition date is approved by the board of directors of such **[**resident**]** domestic corporation on or prior to such stock acquisition date. If a good faith proposal is made in writing to the board of directors of such **[**resident**]** domestic corporation regarding a business combination, the board of directors shall respond, in writing, within sixty days or such shorter period, if any, as may be required by the Exchange Act, setting forth its reasons for its decision regarding such proposal. If a good faith proposal to purchase stock is made in writing to the board of directors of such **[**resident**]** domestic corporation, the board of directors, unless it responds affirmatively in writing within sixty days or such shorter period, if any, as may be required by the Exchange Act, shall be deemed to have disapproved such stock purchase.

3. Notwithstanding anything to the contrary contained in this section, except the provisions of subsections 2 and 4 of this section, no **[**resident**]** domestic corporation shall engage at any time in any business combination with any interested shareholder of such **[**resident**]** domestic corporation other than any of the following business combinations:

(1) A business combination approved by the board of directors of such **[**resident**]** domestic corporation prior to such interested shareholder's stock acquisition date, or where the purchase of stock made by such interested shareholder on such interested shareholder's stock acquisition date had been approved by the board of directors of such **[**resident**]** domestic corporation prior to such interested shareholder's stock acquisition date;

(2) A business combination approved by the affirmative vote of the holders of a majority of the outstanding voting stock not beneficially owned by such interested shareholder or any affiliate or associate of such interested shareholder at a meeting called for such purpose no earlier than five years after such interested shareholder's stock acquisition date;

(3) A business combination that meets all of the following conditions:

(a) The aggregate amount of the cash and the market value as of the consummation date of consideration other than cash to be received per share by holders of outstanding shares of common stock of such **[**resident**]** domestic corporation in such business combination is at least equal to the higher of the following:

a. The highest per share price paid by such interested shareholder at a time when he was the beneficial owner, directly or indirectly, of five percent or more of the outstanding voting stock of such **[**resident**]** domestic corporation, for any shares of common stock of the same class or series acquired by it within the five-year period immediately prior to the announcement date with respect to such business combination, or within the five-year period immediately prior to, or in, the transaction in which such interested shareholder became an interested shareholder, whichever is higher; plus, in either case, interest compounded annually from the earliest date on which such highest per share acquisition price was paid through the consummation date at the rate for one-year United States treasury obligations from time to time in effect; less the aggregate amount of any cash dividends paid, and the market value of any dividends paid other than in cash, per share of common stock since such earliest date, up to the amount of such interest; and

b. The market value per share of common stock on the announcement date with respect to such business combination or on such interested shareholder's stock acquisition date, whichever is higher; plus interest compounded annually from such date through the consummation date at the rate for one-year United States treasury obligations from time to time in effect; less the aggregate amount of any cash dividends paid, and the market value of any dividends paid other than in cash, per share of common stock since such date, up to the amount of such interest;

(b) The aggregate amount of the cash and the market value as of the consummation date of consideration other than cash to be received per share by holders of outstanding shares of any class or series of stock, other than common stock, of such**[** resident**]** domestic corporation is at least equal to the highest of the following, whether or not such interested shareholder has previously acquired any shares of such class or series of stock:

a. The highest per share price paid by such interested shareholder at a time when he was the beneficial owner, directly or indirectly, of five percent or more of the outstanding voting stock of such **[**resident**]** domestic corporation, for any shares of such class or series of stock acquired by him within the five-year period immediately prior to the announcement date with respect to such business combination, or within the five-year period immediately prior to, or in, the transaction in which such interested shareholder became an interested shareholder, whichever is higher; plus, in either case, interest compounded annually from the earliest date on which such highest per share acquisition price was paid through the consummation date at the rate for one-year United States treasury obligations from time to time in effect; less the aggregate amount of any cash dividends paid, and the market value of any dividends paid other than in cash, per share of such class or series of stock since such earliest date, up to the amount of such interest;

b. The highest preferential amount per share to which the holders of shares of such class or series of stock are entitled in the event of any voluntary liquidation, dissolution or winding up of such **[**resident**]** domestic corporation, plus the aggregate amount of any dividends declared or due as to which such holders are entitled prior to payment of dividends on some other class or series of stock, unless the aggregate amount of such dividends is included in such preferential amount; and

c. The market value per share of such class or series of stock on the announcement date with respect to such business combination or on such interested shareholder's stock acquisition date, whichever is higher; plus interest compounded annually from such date through the consummation date at the rate for one-year United States treasury obligations from time to time in effect; less the aggregate amount of any cash dividends paid, and the market value of any dividends paid other than in cash, per share of such class or series of stock since such date, up to the amount of such interest;

(c) The consideration to be received by holders of a particular class or series of outstanding stock, including common stock, of such **[**resident**]** domestic corporation in such business combination is in cash or in the same form as the interested shareholder has used to acquire the largest number of shares of such class or series of stock previously acquired by it, and such consideration shall be distributed promptly;

(d) The holders of all outstanding shares of stock of such **[**resident**]** domestic corporation not beneficially owned by such interested shareholder immediately prior to the consummation of such business combination are entitled to receive in such business combination cash or other consideration for such shares in compliance with paragraphs (a), (b) and (c) of this subdivision;

(e) After such interested shareholder's stock acquisition date and prior to the consummation date with respect to such business combination, such interested shareholder has not become the beneficial owner of any additional shares of voting stock of such **[**resident**]** domestic corporation except:

a. As part of the transaction which resulted in such interested shareholder becoming an interested shareholder;

b. By virtue of proportionate stock splits, stock dividends or other distributions of stock in respect of stock not constituting a business combination under paragraph (e) of subdivision (5) of subsection 1 of this section;

c. Through a business combination meeting all of the conditions of subsection 2 of this section and this subsection; or

d. Through purchase by such interested shareholder at any price which, if such price had been paid in an otherwise permissible business combination the announcement date and consummation date of which were the date of such purchase, would have satisfied the requirements of paragraphs (a), (b) and (c) of this subdivision.

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

(1) Any business combination of a **[**resident**]** domestic corporation that does not have a class of voting stock registered with the securities and exchange commission pursuant to Section 12 of the Exchange Act, unless the articles of incorporation provide otherwise; or

(2) Any business combination of a **[**resident**]** domestic corporation whose articles of incorporation have been amended to provide that such **[**resident**]** domestic corporation shall be subject to the provisions of this section, which did not have a class of voting stock registered with the securities and exchange commission pursuant to Section 12 of the Exchange Act on the effective date of such amendment, and which is a business combination with an interested shareholder whose stock acquisition date is prior to the effective date of such amendment; or

(3) Any business combination of a **[**resident**]** domestic corporation the original articles of incorporation of which contain a provision expressly electing not to be governed by this section, or which adopts an amendment to such **[**resident**]** domestic corporation's bylaws prior to August 1, 1986, expressly electing not to be governed by this section, or which adopts an amendment to such **[**resident**]** domestic corporation's bylaws, approved by the affirmative vote of the holders, other than interested shareholders and their affiliates and associates, expressly electing not to be governed by this section, provided that such amendment to the bylaws shall not be effective until eighteen months after such vote of such **[**resident**]** domestic corporation's shareholders and shall not apply to any business combination of such **[**resident**]** domestic corporation with an interested shareholder whose stock acquisition date is on or prior to the effective date of such amendment; or

(4) Any business combination of a **[**resident**]** domestic corporation with an interested shareholder of such **[**resident**]** domestic corporation which became an interested shareholder inadvertently, if such interested shareholder as soon as practicable, divests itself of a sufficient amount of the voting stock of such **[**resident**]** domestic corporation so that it no longer is the beneficial owner, directly or indirectly, of twenty percent or more of the outstanding voting stock of such **[**resident**]** domestic corporation, and would not at any time within the five-year period

preceding the announcement date with respect to such business combination have been an interested shareholder but for such inadvertent acquisition;

(5) Any business combination with an interested shareholder who was the beneficial owner, directly or indirectly, of five percent or more of the outstanding voting stock of such **[**resident**]** domestic corporation on December 1, 1985, and remained so to such interested shareholder's stock acquisition date;

(6) Any business combination with an interested shareholder or any of its affiliates or associates, provided that such interested shareholder became an interested shareholder at a time when the restrictions contained in this section did not apply by reason of:

(a) Any of subdivisions (1) through (5) of this subsection; or

(b) The fact that the corporation was not then a **[**resident**]** domestic corporation, provided, however, that this subdivision shall not apply if, at the time such interested shareholder became an interested shareholder, the corporation's articles of incorporation contained a provision authorized by the last sentence of this subsection. This subdivision shall apply regardless of whether the stock acquisition date of such interested shareholder occurred prior to August 28, 1999.

Notwithstanding subdivisions (1), (2), (3), (4) and (5) of this subsection, a corporation, whether or not a **[**resident**]** domestic corporation, may elect by a provision of its original articles of incorporation or any amendment thereto to be governed by this section; provided that any such amendment to the articles of incorporation shall not apply to restrict a business combination between the corporation and an interested shareholder of the corporation or any of its affiliates or associates if the interested shareholder became such prior to the effective date of the amendment.

Approved June 30, 2007

HB 444 [SS#2 SCS HCS HB 444, 217, 225, 239, 243, 297, 402 & 172]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes an income tax deduction for Social Security and nonprivate retirement benefits received by the elderly, subject to income limits, and for qualified health insurance premiums

AN ACT to repeal sections 143.121, 143.124, and 143.431, RSMo, and to enact in lieu thereof five new sections relating to income taxation.

SECTION

A. Enacting clause.
143.121. Missouri adjusted gross income.
143.124. Annuities, pensions or retirement allowances provided by state, United States, political subdivisions or any other state, Keogh plans, annuities from defined pension plans and IRAs, amounts subtracted from Missouri adjusted gross income.
143.125. Social Security benefits income tax exemption — amount — rulemaking authority.
143.431. Missouri taxable income and tax.
143.1008. After-school retreat reading and assessment grant program fund, tax refund contribution may be designated — director's duties.

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

SECTION A. ENACTING CLAUSE. — Sections 143.121, 143.124, and 143.431, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 143.121, 143.124, 143.125, 143.431, and 143.1008, to read as follows:

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

2. There shall be added to the taxpayer's federal adjusted gross income:

(a) The amount of any federal income tax refund received for a prior year which resulted in a Missouri income tax benefit;

(b) Interest on certain governmental obligations excluded from federal gross income by Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on obligations of the state of Missouri or any of its political subdivisions or authorities and shall not apply to the interest described in subdivision (a) of subsection 3 of this section. The amount added pursuant to this paragraph shall be reduced by the amounts applicable to such interest that would have been deductible in computing the taxable income of the taxpayer except only for the application of Section 265 of the Internal Revenue Code. The reduction shall only be made if it is at least five hundred dollars;

(c) The amount of any deduction that is included in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount deducted exceeds the amount that would have been deductible pursuant to Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002; **[**and**]**

(d) The amount of any deduction that is included in the computation of federal taxable income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as amended, other than the deduction allowed by Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as amended, for a net operating loss the taxpayer claims in the tax year in which the net operating loss occurred or carries forward for a period of more than twenty years and carries backward for more than two years. Any amount of net operating loss taken against federal taxable income but disallowed for Missouri income tax purposes pursuant to this paragraph after June 18, 2002, may be carried forward and taken against any income on the Missouri income tax return for a period of not more than twenty years from the year of the initial loss**; and**

(e) For nonresident individuals in all taxable years ending on or after December 31, 2006, the amount of any property taxes paid to another state or a political subdivision of another state for which a deduction was allowed on such nonresident's federal return in the taxable year.

3. There shall be subtracted from the taxpayer's federal adjusted gross income the following amounts to the extent included in federal adjusted gross income:

(a) Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent exempt from Missouri income taxes pursuant to the laws of the United States. The amount subtracted pursuant to this paragraph shall be reduced by any interest on indebtedness incurred to carry the described obligations or securities and by any expenses incurred in the production of interest or dividend income described in this paragraph. The reduction in the previous sentence shall only apply to the extent that such expenses including amortizable bond premiums are deducted in determining the taxpayer's federal adjusted gross income or included in the taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses total at least five hundred dollars;

(b) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to one-half of such portion of the gain;

(c) The amount necessary to prevent the taxation pursuant to this chapter of any annuity or other amount of income or gain which was properly included in income or gain and was taxed pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain;

(d) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income;

(e) The amount of any state income tax refund for a prior year which was included in the federal adjusted gross income;

(f) The portion of capital gain specified in section 135.357, RSMo, that would otherwise be included in federal adjusted gross income;

(g) The amount that would have been deducted in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as in effect on January 1, 2002, to the extent that amount relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually deducted pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002;

(h) For all tax years beginning on or after January 1, 2005, the amount of any income received for military service while the taxpayer serves in a combat zone which is included in federal adjusted gross income and not otherwise excluded therefrom. As used in this section, "combat zone" means any area which the President of the United States by Executive Order designates as an area in which armed forces of the United States are or have engaged in combat. Service is performed in a combat zone only if performed on or after the date designated by the President by Executive Order as the date of the commencing of combat activities in such zone, and on or before the date designated by the President by Executive Order as the date of the termination of combatant activities in such zone; and

(i) For all tax years ending on or after July 1, 2002, with respect to qualified property that is sold or otherwise disposed of during a taxable year by a taxpayer and for which an addition modification was made under paragraph (c) of subsection 2 of this section, the amount by which addition modification made under paragraph (c) of subsection 2 of this section on qualified property has not been recovered through the additional subtractions provided in paragraph (g) of this subsection.

4. There shall be added to or subtracted from the taxpayer's federal adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

5. There shall be added to or subtracted from the taxpayer's federal adjusted gross income the modifications provided in section 143.411.

6. In addition to the modifications to a taxpayer's federal adjusted gross income in this section, to calculate Missouri adjusted gross income there shall be subtracted from the taxpayer's federal adjusted gross income any gain recognized pursuant to Section 1033 of the Internal Revenue Code of 1986, as amended, arising from compulsory or involuntary conversion of property as a result of condemnation or the imminence thereof.

7. (1) As used in this subsection, "qualified health insurance premium" means the amount paid during the tax year by such taxpayer for any insurance policy primarily providing health care coverage for the taxpayer, the taxpayer's spouse, or the taxpayer's dependents.

(2) In addition to the subtractions in subsection 3 of this section, one hundred percent of the amount of qualified health insurance premiums shall be subtracted from the taxpayer's federal adjusted gross income to the extent the amount paid for such premiums is included in federal taxable income. The taxpayer shall provide the department of revenue with proof of the amount of qualified health insurance premiums paid.

143.124. ANNUITIES, PENSIONS OR RETIREMENT ALLOWANCES PROVIDED BY STATE, UNITED STATES, POLITICAL SUBDIVISIONS OR ANY OTHER STATE, KEOGH PLANS, ANNUITIES FROM DEFINED PENSION PLANS AND IRAS, AMOUNTS SUBTRACTED FROM MISSOURI ADJUSTED GROSS INCOME. — 1. Other provisions of law to the contrary notwithstanding, **for tax years ending on or before December 31, 2006,** the total amount of all annuities, pensions, or retirement allowances above the amount of six thousand dollars annually provided by any law of this state, the United States, or any other state to any person except as provided in subsection 4 of this section, shall be subject to tax pursuant to the provisions of this chapter, in the same manner, to the same extent and under the same conditions as any other taxable income received by the person receiving it. For purposes of this section, annuity, pension, or retirement allowance shall be defined as an annuity, pension or retirement allowance provided by the United States, this state, any other state or any political subdivision or agency or institution of this or any other state. For all tax years beginning on or after January 1, 1998, for purposes of this section, annuity, pension or retirement allowance shall be defined to include 401(k) plans, deferred compensation plans, self-employed retirement plans, also known as Keogh plans, annuities from a defined pension plan and individual retirement arrangements, also known as IRAs, as described in the Internal Revenue Code, but not including Roth IRAs, as well as an annuity, pension or retirement allowance provided by the United States, this state, any other state or any political subdivision or agency or institution of this or any other state. An individual taxpayer shall only be allowed a maximum deduction **[**of six thousand dollars pursuant to this section. Taxpayers filing combined returns shall only be allowed a maximum deduction of six thousand dollars**]** **equal to the amounts provided under this section** for each taxpayer on the combined return.

2. For the period beginning July 1, 1989, and ending December 31, 1989, there shall be subtracted from Missouri adjusted gross income for that period, determined pursuant to section 143.121, the first three thousand dollars of retirement benefits received by each taxpayer:

(1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and the taxpayer's Missouri adjusted gross income is less than twelve thousand five hundred dollars; or

(2) If the taxpayer's filing status is married filing combined and their combined Missouri adjusted gross income is less than sixteen thousand dollars; or

(3) If the taxpayer's filing status is married filing separately and the taxpayer's Missouri adjusted gross income is less than eight thousand dollars.

3. For the tax years beginning on or after January 1, 1990, **but ending on or before December 31, 2006,** there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of the first six thousand dollars of retirement benefits received by each taxpayer from sources other than privately funded sources, and for tax years beginning on or after January 1, 1998, there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of the first one thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 1998, but before January 1, 1999, and a maximum of the first three thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 1999, but before January 1, 2000, and a maximum of the first four thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 2000, but before January 1, 2001, and a maximum of the first five thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 2001, but before January 1, 2002, and a maximum of the first six thousand dollars of any retirement allowance received from any privately funded sources for tax years beginning on or after January 1, 2002. A taxpayer shall be entitled to the maximum exemption provided by this subsection:

(1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and the taxpayer's Missouri adjusted gross income is less than twenty-five thousand dollars; or

(2) If the taxpayer's filing status is married filing combined and their combined Missouri adjusted gross income is less than thirty-two thousand dollars; or

(3) If the taxpayer's filing status is married filing separately and the taxpayer's Missouri adjusted gross income is less than sixteen thousand dollars.

4. If a taxpayer's adjusted gross income exceeds the adjusted gross income ceiling for such taxpayer's filing status, as provided in subdivisions (1), (2) and (3) of subsection 3 of this section, such taxpayer shall be entitled to an exemption equal to the greater of zero or the maximum exemption provided in subsection 3 of this section reduced by one dollar for every dollar such taxpayer's income exceeds the ceiling for his or her filing status.

5. **For the tax year beginning on or after January 1, 2007, but ending on or before December 31, 2007, for taxpayers sixty-two years of age and older there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or twenty percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For the tax year beginning on or after January 1, 2008, but ending on or before December 31, 2008, for taxpayers sixty-two years of age and older there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or thirty-five percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For the tax year beginning on or after January 1, 2009, but ending on or before December 31, 2009, for taxpayers sixty-two years of age and older there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or fifty percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For the tax year beginning on or after January 1, 2010, but ending on or before December 31, 2010, for taxpayers sixty-two years of age and older there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or sixty-five percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For the tax year beginning on or after January 1, 2011, but ending on or before December 31, 2011, for taxpayers sixty-two years of age and older there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in retirement benefits received from sources other than privately funded sources, to the extent such benefits are included in the taxpayer's federal adjusted gross income; or eighty percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. For all tax years beginning on or after January 1, 2012, for taxpayers sixty-two years of age and older there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of an amount equal to one hundred**

percent of the retirement benefits received from sources other than privately funded sources in the tax year, but not to exceed the maximum Social Security benefit available for such tax year. A taxpayer shall be entitled to the maximum exemption provided by this subsection:

(1) If the taxpayer's filing status is married filing combined, and their combined Missouri adjusted gross income is equal to or less than one hundred thousand dollars; or

(2) If the taxpayer's filing status is single, head of household, qualifying widow(er), or married filing separately, and the taxpayer's Missouri adjusted gross income is equal to or less than eighty-five thousand dollars.

6. If a taxpayer's adjusted gross income exceeds the adjusted gross income ceiling for such taxpayer's filing status, as provided in subdivisions (1) and (2) of subsection 5 of this section, such taxpayer shall be entitled to an exemption, less any applicable reduction provided under subsection 7 of this section, equal to the greater of zero or the maximum exemption provided in subsection 5 of this section reduced by one dollar for every dollar such taxpayer's income exceeds the ceiling for his or her filing status.

7. For purposes of calculating the subtraction provided in subsection 5 of this section, such subtraction shall be decreased by an amount equal to any Social Security benefits received by the taxpayer which are not included in such taxpayer's Missouri adjusted gross income.

8. For purposes of this section, any Social Security benefits otherwise included in Missouri adjusted gross income shall be subtracted; but Social Security benefits shall not be subtracted for purposes of other computations pursuant to this chapter, and are not to be considered as retirement benefits for purposes of this section.

[6.**]** **9.** The provisions of subdivisions (1) and (2) of subsection 3 of this section shall apply during all tax years in which the federal Internal Revenue Code provides exemption levels for calculation of the taxability of Social Security benefits that are the same as the levels in subdivisions (1) and (2) of subsection 3 of this section. If the exemption levels for the calculation of the taxability of Social Security benefits are adjusted by applicable federal law or regulation, the exemption levels in subdivisions (1) and (2) of subsection 3 of this section shall be accordingly adjusted to the same exemption levels.

[7.**]** **10.** The portion of a taxpayer's lump sum distribution from an annuity or other retirement plan not otherwise included in Missouri adjusted gross income as calculated pursuant to this chapter but subject to taxation under Internal Revenue Code Section 402 shall be taxed in an amount equal to ten percent of the taxpayer's federal liability on such distribution for the same tax year.

[8.**]** **11.** For purposes of this section, retirement benefits received shall not include any withdrawals from qualified retirement plans which are subsequently rolled over into another retirement plan.

[9.**]** **12.** The exemptions provided for in this section shall not affect the calculation of the income to be used to determine the property tax credit provided in sections 135.010 to 135.035, RSMo.

[10.**]** **13.** The exemptions provided for in this section shall apply to any annuity, pension, or retirement allowance as defined in subsection 1 of this section to the extent that such amounts are included in the taxpayer's federal adjusted gross income and not otherwise deducted from the taxpayer's federal adjusted gross income in the calculation of Missouri taxable income. This subsection shall not apply to any individual who qualifies under federal guidelines to be one hundred percent disabled.

143.125. SOCIAL SECURITY BENEFITS INCOME TAX EXEMPTION — AMOUNT — RULEMAKING AUTHORITY. — 1. As used in this section, the following terms mean:

(1) "Benefits", any Social Security benefits received by a taxpayer age sixty-two years of age and older, or Social Security disability benefits;

(2) "Taxpayer", any resident individual.

2. For the taxable year beginning on or after January 1, 2007, any taxpayer shall be allowed to subtract from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income a maximum of an amount equal to twenty percent of the amount of any benefits received by the taxpayer and that are included in federal adjusted gross income under Section 86 of the Internal Revenue Code of 1986, as amended. For the taxable year beginning on or after January 1, 2008, any taxpayer shall be allowed to subtract from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income a maximum of an amount equal to thirty-five percent of the amount of any benefits received by the taxpayer and that are included in federal adjusted gross income under Section 86 of the Internal Revenue Code of 1986, as amended. For the taxable year beginning on or after January 1, 2009, any taxpayer shall be allowed to subtract from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income a maximum of an amount equal to fifty percent of the amount of any benefits received by the taxpayer and that are included in federal adjusted gross income under Section 86 of the Internal Revenue Code of 1986, as amended. For the taxable year beginning on or after January 1, 2010, any taxpayer shall be allowed to subtract from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income a maximum of an amount equal to sixty-five percent of the amount of any benefits received by the taxpayer and that are included in federal adjusted gross income under Section 86 of the Internal Revenue Code of 1986, as amended. For the taxable year beginning on or after January 1, 2011, any taxpayer shall be allowed to subtract from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income a maximum of an amount equal to eighty percent of the amount of any benefits received by the taxpayer and that are included in federal adjusted gross income under Section 86 of the Internal Revenue Code of 1986, as amended. For all taxable years beginning on or after January 1, 2012, any taxpayer shall be allowed to subtract from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income a maximum of an amount equal to one hundred percent of the amount of any benefits received by the taxpayer and that are included in federal adjusted gross income under Section 86 of the Internal Revenue Code of 1986, as amended. A taxpayer shall be entitled to the maximum exemption provided by this subsection:

(1) If the taxpayer's filing status is married filing combined, and their combined Missouri adjusted gross income is equal to or less than one hundred thousand dollars; or

(2) If the taxpayer's filing status is single, head of household, qualifying widow(er), or married filing separately, and the taxpayer's Missouri adjusted gross income is equal to or less than eighty-five thousand dollars.

3. If a taxpayer's adjusted gross income exceeds the adjusted gross income ceiling for such taxpayer's filing status, as provided in subdivisions (1) and (2) of subsection 2 of this section, such taxpayer shall be entitled to an exemption equal to the greater of zero or the maximum exemption provided in subsection 2 of this section reduced by one dollar for every dollar such taxpayer's income exceeds the ceiling for his or her filing status.

4. The director of the department of revenue may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

143.431. MISSOURI TAXABLE INCOME AND TAX. — 1. The Missouri taxable income of a corporation taxable under sections 143.011 to 143.996 shall be so much of its federal taxable income for the taxable year, with the modifications specified in subsections 2 to 4 of this section, as is derived from sources within Missouri as provided in section 143.451. The tax of a corporation shall be computed on its Missouri taxable income at the rates provided in section 143.071.

2. There shall be added to or subtracted from federal taxable income the modifications to adjusted gross income provided in section 143.121**, with the exception of subdivision (e) of subsection 2 of section 143.121,** and the applicable modifications to itemized deductions provided in section 143.141. There shall be subtracted the federal income tax deduction provided in section 143.171. There shall be subtracted, to the extent included in federal taxable income, corporate dividends from sources within Missouri.

3. (1) If an affiliated group of corporations files a consolidated income tax return for the taxable year for federal income tax purposes and fifty percent or more of its income is derived from sources within this state as determined in accordance with section 143.451, then it may elect to file a Missouri consolidated income tax return. The federal consolidated taxable income of the electing affiliated group for the taxable year shall be its federal taxable income.

(2) So long as a federal consolidated income tax return is filed, an election made by an affiliated group of corporations to file a Missouri consolidated income tax return may be withdrawn or revoked only upon substantial change in the law or regulations adversely changing tax liability under this chapter, or with permission of the director of revenue upon the showing of good cause for such action. After such a withdrawal or revocation with respect to an affiliated group, it may not file a Missouri consolidated income tax return for five years thereafter, except with the approval of the director of revenue, and subject to such terms and conditions as he may prescribe.

(3) No corporation which is part of an affiliated group of corporations filing a Missouri consolidated income tax return shall be required to file a separate Missouri corporate income tax return for the taxable year.

(4) For each taxable year an affiliated group of corporations filing a federal consolidated income tax return does not file a Missouri consolidated income tax return, for purposes of computing the Missouri income tax, the federal taxable income of each member of the affiliated group shall be determined as if a separate federal income tax return had been filed by each such member.

(5) The director of revenue may prescribe such regulations not inconsistent with the provisions of this chapter as he may deem necessary in order that the tax liability of any affiliated group of corporations making a Missouri consolidated income tax return, and of each corporation in the group, before, during, and after the period of affiliation, may be returned, determined, computed, assessed, collected, and adjusted, in such manner as clearly to reflect the Missouri taxable income derived from sources within this state and in order to prevent avoidance of such tax liability.

4. If a net operating loss deduction is allowed for the taxable year, there shall be added to federal taxable income the amount of the net operating loss modification for each loss year as to which a portion of the net operating loss deduction is attributable. As used in this subsection, the following terms mean:

(1) "Loss year", the taxable year in which there occurs a federal net operating loss that is carried back or carried forward in whole or in part to another taxable year;

(2) "Net addition modification", for any taxable year, the amount by which the sum of all required additions to federal taxable income provided in this chapter, except for the net operating loss modification, exceeds the combined sum of the amount of all required subtractions from federal taxable income provided in this chapter;

(3) "Net operating loss deduction", a net operating loss deduction allowed for federal income tax purposes under Section 172 of the Internal Revenue Code of 1986, as amended, or

a net operating loss deduction allowed for Missouri income tax purposes under paragraph (d) of subsection 2 of section 143.121, but not including any net operating loss deduction that is allowed for federal income tax purposes but disallowed for Missouri income tax purposes under paragraph (d) of subsection 2 of section 143.121;

(4) "Net operating loss modification", an amount equal to the lesser of the amount of the net operating loss deduction attributable to that loss year or the amount by which the total net operating loss in the loss year is less than the sum of:

(a) The net addition modification for that loss year; and

(b) The cumulative net operating loss deductions attributable to that loss year allowed for the taxable year and all prior taxable years.

5. For all tax years ending on or after July 1, 2002, federal taxable income may be a positive or negative amount. Subsection 4 of this section shall be effective for all tax years with a net operating loss deduction attributable to a loss year ending on or after July 1, 2002, and the net operating loss modification shall only apply to loss years ending on or after July 1, 2002.

143.1008. AFTER-SCHOOL RETREAT READING AND ASSESSMENT GRANT PROGRAM FUND, TAX REFUND CONTRIBUTION MAY BE DESIGNATED — DIRECTOR'S DUTIES. — 1. In each taxable year beginning on or after January 1, 2008, 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 after-school retreat reading and assessment grant program fund. The contribution designation authorized by this section shall be clearly and unambiguously printed on the first page of each income tax return form provided by this state. If any individual or corporation 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 after-school retreat reading and assessment grant program 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 after-school retreat reading and assessment grant program fund, the individual or corporation wishes to contribute. The department of revenue shall deposit such amount to the after-school retreat reading and assessment grant program 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 after-school retreat reading and assessment grant program fund. The fund shall be administered by the department of elementary and secondary education with moneys in the fund distributed as provided under section 167.680, RSMo.

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 2008, to the after-school retreat reading and assessment grant program fund.

4. A contribution designated under this section shall only be deposited in the after-school retreat reading and assessment grant program fund after all other claims against the refund from which such contribution is to be made have been satisfied.

5. Moneys deposited in the after-school retreat reading and assessment grant program fund shall be distributed by the department of elementary and secondary education in accordance with the provisions of this section and section 167.680, 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 August 28, 2007, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

Approved July 5, 2007

HB 453 [SS HCS HB 453]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes an income tax credit for donations to food pantries and adds cash, publicly traded stocks and bonds, and real estate as eligible donations for the Residential Treatment Agency Tax Credit

AN ACT to repeal section 135.1150, RSMo, and to enact in lieu thereof two new sections relating to tax credits for certain contributions.

SECTION

A. Enacting clause.

135.647. Donated food tax credit — definitions — amount — procedure to claim the credit — rulemaking authority — sunset provision.

135.1150. Citation of law — definitions — tax credit, amount — claim application — limitation — transferability of credit — rulemaking authority — sunset provision.

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

SECTION A. ENACTING CLAUSE. — Section 135.1150, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 135.647 and 135.1150, to read as follows:

135.647. DONATED FOOD TAX CREDIT — DEFINITIONS — AMOUNT — PROCEDURE TO CLAIM THE CREDIT — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. As used in this section the following terms shall mean:

(1) "Local food pantry", any food pantry that is:

(a) Exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

(b) Distributing emergency food supplies to Missouri low-income people who would otherwise not have access to food supplies in the area in which the taxpayer claiming the tax credit under this section resides;

(2) "Taxpayer", an individual, a firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in this state and subject to the state income tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo.

2. For all tax years beginning on or after January 1, 2007, any taxpayer who donates cash or food, unless such food is donated after the food's expiration date, to any local food pantry shall be allowed a credit against the tax otherwise due under chapter 143, RSMo,

excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in an amount equal to fifty percent of the value of the donations made to the extent such amounts that have been subtracted from federal adjusted gross income or federal taxable income are added back in the determination of Missouri adjusted gross income or Missouri taxable income before the credit can be claimed. Each taxpayer claiming a tax credit under this section shall file an affidavit with the income tax return verifying the amount of their contributions. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year that the credit is claimed, and shall not exceed two thousand five hundred dollars per taxpayer claiming the credit. Any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may be carried forward to any of the taxpayer's three subsequent taxable years. No tax credit granted under this section shall be transferred, sold, or assigned. No taxpayer shall be eligible to receive a credit pursuant to this section if such taxpayer employs persons who are not authorized to work in the United States under federal law.

3. The cumulative amount of tax credits under this section which may be allocated to all taxpayers contributing to a local food pantry in any one fiscal year shall not exceed two million dollars. The director of revenue shall establish a procedure by which the cumulative amount of tax credits is apportioned among all taxpayers claiming the credit by April fifteenth of the fiscal year in which the tax credit is claimed. To the maximum extent possible, the director of revenue shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

4. Any local food pantry may accept or reject any donation of food made under this section for any reason. For purposes of this section, any donations of food accepted by a local food pantry shall be valued at fair market value, or at wholesale value if the taxpayer making the donation of food is a retail grocery store, food broker, wholesaler, or restaurant.

5. The department of revenue shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

6. Under section 23.253, RSMo, of the Missouri Sunset Act:

(1) The provisions of the new program authorized under this section shall automatically sunset four 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.

135.1150. CITATION OF LAW — DEFINITIONS — TAX CREDIT, AMOUNT — CLAIM APPLICATION — LIMITATION — TRANSFERABILITY OF CREDIT — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. This section shall be known and may be cited as the "Residential Treatment Agency Tax Credit Act".

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

(1) "Certificate", a tax credit certificate issued under this section;

(2) "Department", the Missouri department of social services;

(3) "Eligible **[**monetary**]** donation", donations received from a taxpayer by an agency that are used solely to provide direct care services to children who are residents of this state. **Eligible donations may include cash, publicly-traded stocks and bonds, and real estate that will be valued and documented according to rules promulgated by the department of social services.** For purposes of this section, "direct care services" include but are not limited to increasing the quality of care and service for children through improved employee compensation and training;

(4) "Qualified residential treatment agency" or "agency", a residential care facility that is licensed under section 210.484, RSMo, accredited by the Council on Accreditation (COA), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or the Commission on Accreditation of Rehabilitation Facilities (CARF), and is under contract with the Missouri department of social services to provide treatment services for children who are residents or wards of residents of this state, and that receives eligible monetary donations. Any agency that operates more than one facility or at more than one location shall be eligible for the tax credit under this section only for any eligible monetary donations made to facilities or locations of the agency which are licensed and accredited;

(5) "Taxpayer", any of the following individuals or entities who make **an** eligible **[**monetary donations**] donation** to an agency:

(a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed in chapter 143, RSMo;

(b) A corporation subject to the annual corporation franchise tax imposed in chapter 147, RSMo;

(c) An insurance company paying an annual tax on its gross premium receipts in this state;

(d) Any other financial institution paying taxes to the state of Missouri or any political subdivision of this state under chapter 148, RSMo;

(e) An individual subject to the state income tax imposed in chapter 143, RSMo.

3. For all taxable years beginning on or after January 1, 2007, any taxpayer shall be allowed a credit against the taxes otherwise due under chapter 147, 148, or 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in an amount equal to fifty percent of the amount of an eligible monetary donation, subject to the restrictions in this section. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state income tax liability in the tax year for which the credit is claimed. Any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may be carried forward to any of the taxpayer's four subsequent taxable years.

4. To claim the credit authorized in this section, an agency may submit to the department an application for the tax credit authorized by this section on behalf of taxpayers. The department shall verify that the agency has submitted the following items accurately and completely:

(1) A valid application in the form and format required by the department;

(2) A statement attesting to the eligible **[**monetary**]** donation received, which shall include the name and taxpayer identification number of the individual making the eligible **[**monetary**]** donation, the amount of the eligible **[**monetary**]** donation, and the date the eligible **[**monetary**]** donation was received by the agency; and

(3) Payment from the agency equal to the value of the tax credit for which application is made.

If the agency applying for the tax credit meets all criteria required by this subsection, the department shall issue a certificate in the appropriate amount.

5. An agency may apply for tax credits in an aggregate amount that does not exceed forty percent of the payments made by the department to the agency in the preceding twelve months.

6. Tax credits issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit shall have the same rights in the credit as the taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit or the value of the credit.

7. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

8. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2006, 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 May 1, 2007

HB 459 [HCS HB 459]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires land transfers by entities within a county to be filed with the county assessor

AN ACT to repeal sections 71.011 and 71.012, RSMo, and to enact in lieu thereof two new sections relating to municipal land transfers.

SECTION

A. Enacting clause.

71.011. Transfer of certain land between municipalities, when — procedure — exception — concurrent detachment and annexation, procedure.

71.012. Annexation procedure, hearing, exceptions (Perry County, Randolph County) — contiguous and compact defined — common interest community, cooperative and planned community, defined — objection, procedure.

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

SECTION A. ENACTING CLAUSE. — Sections 71.011 and 71.012, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 71.011 and 71.012, to read as follows:

71.011. TRANSFER OF CERTAIN LAND BETWEEN MUNICIPALITIES, WHEN — PROCEDURE — EXCEPTION — CONCURRENT DETACHMENT AND ANNEXATION, PROCEDURE. — 1. Except as provided in subsection 2 of this section, property of a municipality which abuts another municipality may be concurrently detached from one municipality and annexed by the other

municipality by the enactment by the governing bodies of each municipality of an ordinance describing by metes and bounds the property, declaring the property so described to be concurrently detached and annexed, and stating the reasons for and the purposes to be accomplished by the detachment and annexation. One certified copy of each ordinance shall be filed with the county clerk, **with the county assessor,** with the county recorder of deeds, and with the clerk of the circuit court of the county in which the property is located, whereupon the concurrent detachment and annexation shall be complete and final. Thereafter all courts of this state shall take notice of the limits of both municipalities as changed by the ordinances. No declaratory judgment or election shall be required for any concurrent detachment and annexation permitted by this section if there are no residents living in the area or if there are residents in the area and they be notified of the annexation and do not object within sixty days.

2. In a county of the first classification with a charter form of government containing all or a portion of a city with a population of at least three hundred thousand inhabitants, unimproved property of a municipality which overlaps another municipality may be concurrently detached from one municipality and annexed by the other municipality by the enactment by the governing body of the receiving municipality of an ordinance describing by metes and bounds the property, declaring the property so described to be detached and annexed, and stating the reasons for and the purposes to be accomplished by the detachment and annexation. A copy of said ordinance shall be mailed to the city clerk of the contributing municipality, which shall have thirty days from receipt of said notice to pass an ordinance disapproving the change of boundary. If such ordinance is not passed within thirty days, the change shall be effective and one certified copy of the ordinance shall be filed with the county clerk, **with the county assessor,** with the county recorder of deeds, and with the clerk of the circuit court of the county in which the property is located, whereupon the concurrent detachment and annexation shall be complete and final. Thereafter all courts of this state shall take notice of the limits of both municipalities as changed by the ordinances. No declaratory judgment or election shall be required for any concurrent detachment and annexation permitted by this section if the landowners in the area are notified and do not object within sixty days.

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" **shall be defined as** 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 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 **and county assessor** 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.

Approved June 13, 2007

HB 461 [HCS HB 461]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the State Water Patrol

AN ACT to repeal sections 36.030, 36.031, 306.161, 306.163, and 650.005, RSMo, and to enact in lieu thereof ten new sections relating to the water patrol, with an emergency clause.

SECTION

A. Enacting clause.
36.030. Personnel, administration of merit system — departments affected — exemptions — employee suggestions, awards authorized.
36.031. Applicability of merit system — director of personnel to notify affected agencies.
306.161. State water patrol authorized to employ personnel.
306.163. Commissioner of water patrol, appointment, oath, duties — granted powers of a peace officer, when — lieutenant colonel to assume the duties of the commissioner, when.
306.227. Minimum age for water patrolmen and radio personnel — disqualifying criteria for patrolmen and the commissioner.
306.228. Authorized personnel appointments by the commissioner — national emergency, personnel called in to military service — discrimination prohibited.
306.229. Salary increases, commissioner may prescribe policies for — submission of a salary schedule, contents — military services, effect of.
306.230. Rules authorized — promotion of patrolmen, general order of commissioner to establish circumstances for.
306.232. Disciplinary action after probation permitted, when — complaint procedures.
650.005. Department of public safety created — director — appointment — department's duties — rules, procedure.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 36.030, 36.031, 306.161, 306.163, and 650.005, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 36.030, 36.031, 306.161, 306.163, 306.227, 306.228, 306.229, 306.230, 306.232, and 650.005, to read as follows:

36.030. PERSONNEL, ADMINISTRATION OF MERIT SYSTEM — DEPARTMENTS AFFECTED — EXEMPTIONS — EMPLOYEE SUGGESTIONS, AWARDS AUTHORIZED. — 1. A system of personnel administration based on merit principles and designed to secure efficient administration is established for all offices, positions and employees, except attorneys, of the department of social services, the department of corrections, the department of health and senior services, the department of natural resources, the department of mental health, the division of personnel and other divisions and units of the office of administration, the division of employment security, mine safety and on-site consultation sections of the division of labor standards and administration operations of the department of labor and industrial relations, the division of tourism and job development and training, the Missouri housing development commission, and the office of public counsel of the department of economic development, **[**the Missouri state water patrol,**]** the Missouri veterans commission, capitol police and state emergency management agency of the department of public safety, such other agencies as may be designated by law, and such other agencies as may be required to maintain personnel standards on a merit basis by federal law or regulations for grant-in-aid programs; except that, the following offices and positions of these agencies are not subject to this chapter and may be filled without regard to its provisions:

(1) Other provisions of the law notwithstanding, members of boards and commissions, departmental directors, five principal assistants designated by the departmental directors, division

directors, and three principal assistants designated by each division director; except that, these exemptions shall not apply to the division of personnel;

(2) One principal assistant for each board or commission, the members of which are appointed by the governor or by a director of the department;

(3) Chaplains and attorneys regularly employed or appointed in any department or division subject to this chapter, except as provided in section 36.031;

(4) Persons employed in work assignments with a geographic location principally outside the state of Missouri and other persons whose employment is such that selection by competitive examination and standard classification and compensation practices are not practical under all the circumstances as determined by the board by rule;

(5) Patients or inmates in state charitable, penal and correctional institutions who may also be employees in the institutions;

(6) Persons employed in an internship capacity in a state department or institution as a part of their formal training, at a college, university, business, trade or other technical school; except that, by appropriate resolution of the governing authorities of any department or institution, the personnel division may be called upon to assist in selecting persons to be appointed to internship positions;

(7) The administrative head of each state medical, penal and correctional institution, as warranted by the size and complexity of the organization and as approved by the board;

(8) Deputies or other policy-making assistants to the exempt head of each division of service, as warranted by the size or complexity of the organization and in accordance with the rules promulgated by the personnel advisory board;

(9) Special assistants as designated by an appointing authority; except that, the number of such special assistants shall not exceed one percent of a department's total authorized full-time equivalent workforce;

(10) Merit status shall be retained by present incumbents of positions identified in this section which have previously been subject to this chapter.

2. All positions in the executive branch transferred to coverage pursuant to this chapter where incumbents of such positions have at least twelve months' prior service on the effective date of such transfer shall have incumbency preference and shall be permitted to retain their positions, provided they meet qualification standards acceptable to the division of personnel of the office of administration. An employee with less than twelve months of prior service on the effective date of such transfer or an employee who is appointed to such position after the effective date of such transfer and prior to the classification and allocation of the position by the division of personnel shall be permitted to retain his or her position, provided he or she meets acceptable qualification standards and subject to successful completion of a working test period which shall not exceed twelve months of total service in the position. After the allocation of any position to an established classification, such position shall thereafter be filled only in accordance with all provisions of this chapter.

3. The system of personnel administration governs the appointment, promotion, transfer, layoff, removal and discipline of employees and officers and other incidents of employment in divisions of service subject to this chapter, and all appointments and promotions to positions subject to this chapter shall be made on the basis of merit and fitness.

4. To encourage all state employees to improve the quality of state services, increase the efficiency of state work operations, and reduce the costs of state programs, the director of the division of personnel shall establish employee recognition programs, including a statewide employee suggestion system. The director shall determine reasonable rules and shall provide reasonable standards for determining the monetary awards, not to exceed five thousand dollars, under the employee suggestion system. Awards shall be made from funds appropriated for this purpose.

5. At the request of the senate or the house of representatives, the commissioner of administration shall submit a report on the employee suggestion award program described in subsection 4 of this section.

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 Missouri state water patrol the compensation of which is established by section 306.229, 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.

306.161. STATE WATER PATROL AUTHORIZED TO EMPLOY PERSONNEL. — The Missouri state water patrol is authorized to employ, within the limits of appropriations **[**made therefor and subject to the provisions of chapter 36, RSMo,**]** **and notwithstanding any other provision of law to the contrary,** such personnel as may be necessary to properly perform the duties of the water patrol, and the water patrol shall prescribe the duties and responsibilities of such personnel.

306.163. COMMISSIONER OF WATER PATROL, APPOINTMENT, OATH, DUTIES — GRANTED POWERS OF A PEACE OFFICER, WHEN — LIEUTENANT COLONEL TO ASSUME THE DUTIES OF THE COMMISSIONER, WHEN. — 1. The governor, by and with the advice and consent of the senate, shall appoint a commissioner of the Missouri state water patrol to serve

at the pleasure of the governor. **[**He**]** **The commissioner** shall take and subscribe an oath of office to perform **[**his**]** **the commissioner's** duties faithfully and impartially.

2. The commissioner shall prescribe rules for instruction and discipline and make administrative rules and regulations and fix the hours of duty for the members of the patrol. **[**He**]** **The commissioner** shall have charge of the office of the patrol, shall be custodian of the records of the patrol, and shall direct the day-to-day activities of the officers, patrolmen and office personnel.

3. **[**He**]** **The commissioner** shall be given a certificate of appointment, a copy of which shall be filed with the secretary of state, granting him **or her** all the powers of a peace officer to enforce all the laws of this state within the jurisdiction of the water patrol as listed in section 306.165, provided that he has completed a law enforcement training course which meets the standards established in chapter 590, RSMo.

4. In the absence, or upon the disability, of the commissioner, or at the time the commissioner designates, the lieutenant colonel shall assume the duties of the commissioner. In case of the disability of the commissioner and the lieutenant colonel, the governor may designate a major as acting commissioner and when so designated, the acting commissioner shall have all the powers and duties of the commissioner.

306.227. MINIMUM AGE FOR WATER PATROLMEN AND RADIO PERSONNEL — DISQUALIFYING CRITERIA FOR PATROLMEN AND THE COMMISSIONER. — Patrolmen and radio personnel of the water patrol shall not be less than twenty-one years of age. No person shall be appointed as commissioner or as a member of the patrol or as a member of the radio personnel who:

(1) Has been convicted of a felony or any crime involving moral turpitude, or against whom any indictment or information may then be pending charging the person with having committed a crime;

(2) Is not of good character;

(3) Is not a citizen of the United States;

(4) At the time of appointment is not a citizen of the state of Missouri;

(5) Is not a graduate of an accredited four-year high school or in lieu thereof has not obtained a certificate of equivalency from the state department of elementary and secondary education or other source recognized by such department; or

(6) Does not possess ordinary physical strength, and who is not able to pass the physical and mental examination that the commissioner prescribes.

306.228. AUTHORIZED PERSONNEL APPOINTMENTS BY THE COMMISSIONER — NATIONAL EMERGENCY, PERSONNEL CALLED IN TO MILITARY SERVICE — DISCRIMINATION PROHIBITED. — 1. The commissioner may appoint from within the membership not more than one assistant commissioner, two majors, nine captains, nine lieutenants, and one director of radio, each of whom shall have the same qualifications as the commissioner, and such additional force of sergeants, corporals and patrolmen, so that the total number of members of the patrol shall not exceed ninety-nine officers and patrolmen and such numbers of radio personnel as the commissioner deems necessary.

2. In case of a national emergency the commissioner may name additional patrolmen and radio personnel in a number sufficient to replace, temporarily, patrolmen and radio personnel called into military services.

3. Applicants shall not be discriminated against because of race, creed, color, national origin, religion or sex.

306.229. SALARY INCREASES, COMMISSIONER MAY PRESCRIBE POLICIES FOR — SUBMISSION OF A SALARY SCHEDULE, CONTENTS — MILITARY SERVICES, EFFECT OF. — 1. The commissioner is authorized and empowered to prescribe policies providing increases

in the salaries of patrolmen and radio personnel of the water patrol, subject to appropriations. Each year, prior to January first, the commissioner shall submit a salary schedule report to the governor, speaker of the house of representatives, and the president pro tem of the senate. The salary schedule report prepared by the commissioner shall include, in addition to other matters deem pertinent to the commissioner, a comparison of the salaries of police officers of three police departments, that employ similar numbers of patrol officers in the state. Such report shall also include a full description and comparison of each department position used to determine parity for all patrol positions of sergeant and above. The governor may make additional recommendations to the report and forward them to the speaker of the house of representatives and president pro tem of the senate. The speaker of the house of representatives and the president pro tem of the senate may assign the salary schedule report to the appropriate standing committees to review the salary comparisons to ensure that parity, as adjusted for equivalent duties and functions, in the salary of patrolmen and radio personnel of the water patrol and officers of the three police departments that employ similar numbers of patrol officers in the state is maintained. The commissioner of the water patrol shall testify before the appropriate committee on the salary schedule report if called up by such committee.

2. The "service" of a member of the patrol, who has served in the armed forces of the United States and who has subsequently been reinstated as a member of the patrol within ninety days after receiving a discharge other than dishonorable from the armed forces of the United States, shall be considered service with the patrol as a member of the patrol rendered since last becoming a member prior to entrance into the armed forces of the United States; except that no member shall be entitled to any credit, privilege or benefit provided by this chapter if such reenlistment, waiver of discharge, acceptance of commission or any other action, with the armed forces beyond the period of service for which such member was originally commissioned, enlisted, inducted or called.

306.230. RULES AUTHORIZED — PROMOTION OF PATROLMEN, GENERAL ORDER OF COMMISSIONER TO ESTABLISH CIRCUMSTANCES FOR. — 1. The commissioner 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. 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, 2007, shall be invalid and void. The commissioner shall divide the state into districts and assign members of the patrol to such districts in a manner deemed proper to carry out the purposes of this chapter. The commissioner may call members of the patrol from one district to another.

2. The commissioner may, by general order, establish for the circumstances under which members of the patrol are promoted. The commissioner shall classify and, by promotion, increase the rank of lieutenant colonels, majors, captains, lieutenants, sergeants, corporals, patrolmen, and radio personnel from the next lower rank after not less than one year of service satisfactorily performed therein. If the commissioner finds the candidate pool to fill a position through promotion is not sufficient from which to select, the commissioner may promote an individual from the next lower rank.

306.232. DISCIPLINARY ACTION AFTER PROBATION PERMITTED, WHEN — COMPLAINT PROCEDURES. — 1. After a probation period of one year, members of the patrol shall be

subject to removal, reduction in rank, or suspension of more than three days only for cause after a petition with a formal charge has been filed in writing before or by the commissioner and upon a finding and vote by a majority of a board of six patrol members after a hearing. The members of the board shall be randomly selected from districts or divisions other than that of the accused. The board shall be composed of six unbiased members including one nonvoting captain, one lieutenant, and four members of the same rank as the accused member. The randomly selected captain shall serve as presiding officer at the hearing. Within thirty days after the petition is filed, unless the accused consents to an extension of the time, the board shall conduct a hearing and report to the commissioner the finding and vote of the majority of the board, whether the charges are true, and what discipline, if any, should be imposed. All lawful rules, regulations, and orders of the commissioner shall be obeyed by the members of the patrol, who shall be subject to dismissal or one or more of the following as adjudged by the commissioner:

(1) Suspension without pay for not more than thirty days;

(2) Reduction in rank; or

(3) Disciplinary transfer at the member's expense.

Nothing in this section shall be construed to prevent nondisciplinary transfers of members if the commissioner determines that such transfers are for the good of the patrol. No hearings shall be required in the case of reprimands or suspensions of three days or less which may be imposed at the discretion of the commissioner.

2. If a complaint is filed against a member, the member shall be provided a copy of the complaint promptly after the complaint is filed by or received by the patrol. Unless the member consents in writing to an earlier time, the member shall not be questioned by the patrol about the complaint or ordered to respond in writing to the complaint until forty-eight hours after the member has received a copy of the complaint. The member shall have a reasonable opportunity to have counsel present during any questioning related to the complaint. Prior to the commissioner or the patrol making an initial recommendation of discipline, the member shall be entitled to a copy of any investigation reports and any other written or recorded information or other evidence reviewed by the patrol which relates to the complaint; and the member will be afforded an opportunity to present a written response thereto.

3. Notwithstanding the provisions of this subsection or subsection 2 of this section to the contrary, the commissioner may postpone notifying a member that a complaint has been filed against him or her and may withhold the complaint and part or all of the investigation report and other evidence if the commissioner determines that such disclosures shall seriously interfere with the investigation regarding such complaint or any other investigation being conducted by the patrol or may likely jeopardize the health or safety of any person. Nothing in this subsection shall be construed to limit the rights of parties to discovery in civil or criminal litigation.

650.005. DEPARTMENT OF PUBLIC SAFETY CREATED — DIRECTOR — APPOINTMENT — DEPARTMENT'S DUTIES — RULES, PROCEDURE. — 1. There is hereby created a "Department of Public Safety" in charge of a director appointed by the governor with the advice and consent of the senate. The department's role will be to provide overall coordination in the state's public safety and law enforcement program, to provide channels of coordination with local and federal agencies in regard to public safety, law enforcement and with all correctional and judicial agencies in regard to matters pertaining to its responsibilities as they may interrelate with the other agencies or offices of state, local or federal governments.

2. All the powers, duties and functions of the state highway patrol, chapter 43, RSMo, and others, are transferred by type II transfer to the department of public safety. The governor by and with the advice and consent of the senate shall appoint the superintendent of the patrol. With the

exception of sections 43.100 to 43.120, RSMo, relating to financial procedures, the director of public safety shall succeed the state highways and transportation commission in approving actions of the superintendent and related matters as provided in chapter 43, RSMo. Uniformed members of the patrol shall be selected in the manner provided by law and shall receive the compensation provided by law. Nothing in the Reorganization Act of 1974, however, shall be interpreted to affect the funding of appropriations or the operation of chapter 104, RSMo, relating to retirement system coverage or section 226.160, RSMo, relating to workers' compensation for members of the patrol.

3. All the powers, duties and functions of the supervisor of liquor control, chapters 311 and 312, RSMo, and others, are transferred by type II transfer to the department of public safety. The supervisor shall be nominated by the department director and appointed by the governor with the advice and consent of the senate. The supervisor shall appoint such agents, assistants, deputies and inspectors as limited by appropriations. All employees shall have the qualifications provided by law and may be removed by the supervisor or director of the department as provided in section 311.670, RSMo.

4. The director of public safety, superintendent of the highway patrol and transportation division of the department of economic development are to examine the motor carrier inspection laws and practices in Missouri to determine how best to enforce the laws with a minimum of duplication, harassment of carriers and to improve the effectiveness of supervision of weight and safety requirements and to report to the governor and general assembly by January 1, 1975, on their findings and on any actions taken.

5. The Missouri division of highway safety is transferred by type I transfer to the department of public safety. The division shall be in charge of a director who shall be appointed by the director of the department.

6. All the powers, duties and functions of the safety and fire prevention bureau of the department of public health and welfare are transferred by type I transfer to the director of public safety.

7. All the powers, duties and functions of the state fire marshal, chapter 320, RSMo, and others, are transferred to the department of public safety by a type I transfer.

8. All the powers, duties and functions of the law enforcement assistance council administering federal grants, planning and the like relating to Public Laws 90-351, 90-445 and related acts of Congress are transferred by type I transfer to the director of public safety. The director of public safety shall appoint such advisory bodies as are required by federal laws or regulations. The council is abolished.

9. The director of public safety shall promulgate motor vehicle regulations and be ex officio a member of the safety compact commission in place of the director of revenue and all powers, duties and functions relating to chapter 307, RSMo, are transferred by type I transfer to the director of public safety.

10. The office of adjutant general and the state militia are assigned to the department of public safety; provided, however, nothing herein shall be construed to interfere with the powers and duties of the governor as provided in article IV, section 6 of the Constitution of the state of Missouri or chapter 41, RSMo.

11. All the powers, duties and functions of the Missouri boat commission, chapter 306, RSMo, and others, are transferred by type I transfer to the "Missouri State Water Patrol", which is hereby created, in the department of public safety. The Missouri boat commission and the office of secretary to the commission are abolished. The Missouri state water patrol shall be headed by a boat commissioner who shall be appointed by the governor, with the advice and consent of the senate. All deputy boat commissioners and all other employees of the commission who were employed on February 1, 1974, shall be transferred to the water patrol **[**and they shall be immediately covered by the provisions of chapter 36, RSMo,**]** without further qualification. **[**All deputy boat commissioners and others employed by the water patrol after May 2, 1974, shall be selected and removed pursuant to the provisions of chapter 36, RSMo.**]**

12. The division of veterans affairs, chapter 42, RSMo, is assigned to the office of adjutant general. The adjutant general, with the advice of the veterans' board, shall appoint the director of the division of veterans affairs who shall serve at the pleasure of the adjutant general.

13. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority of this chapter, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1999. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this section shall affect the validity of any rule adopted and promulgated prior to August 28, 1999

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure that the waters of Missouri are safe for all Missourians, the provisions of Section A of this act are deemed necessary for the immediate preservation of public health, welfare, peace and safety, and are hereby declared to be an emergency within the meaning of the Constitution , and section A of this act shall be in full force and effect on July 1, 2007, or upon its passage and approval, whichever occurs later.

Approved May 31, 2007

HB 467 [HB 467]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Governor to convey state property in Pettis County to the Girl Scouts-Heart of Missouri Council, Incorporated

AN ACT to authorize the conveyance of property owned by the state in Pettis County to the Girl Scouts-Heart of Missouri Council, Inc., with an emergency clause.

SECTION

1. Conveyance of state property in Pettis County to the Girl Scouts - Heart of Missouri Council, Inc., procedure.
A. Emergency clause.

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

SECTION 1. CONVEYANCE OF STATE PROPERTY IN PETTIS COUNTY TO THE GIRL SCOUTS - HEART OF MISSOURI COUNCIL, INC., PROCEDURE. — 1. The governor is hereby authorized to remit, release, and forever quit claim any and all interest in property owned by the state in Pettis County to the Girl Scouts - Heart of Missouri Council, Inc. The property to be conveyed is more particularly described as follows:

The North Half of the Northwest Quarter of the Northeast Quarter of Section Number Nineteen (19), also that part of the Northeast Quarter of the Northeast Quarter of Section Number Nineteen (19) lying North and West of the Sedalia and Warsaw Public Road, all in Township Number Forty Five (45) North of Range Number Twenty One (21) West of the Fifth Principal Meridian, containing twelve and eight tenths acres of land more or less.

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 not be 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 A. EMERGENCY CLAUSE. — Because immediate action is necessary to permit the Girl Scouts to obtain financing for improvements on the property to be conveyed, section 1 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 1 of this act shall be in full force and effect upon its passage and approval.

Approved May 31, 2007

HB 497 [HCS HB 497]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes guidelines for the licensure and supervision of physician assistants

AN ACT to repeal section 334.735, RSMo, and to enact in lieu thereof one new section relating to physician assistants.

SECTION

A. Enacting clause.

334.735. Definitions — rules — scope of practice — prohibited activities — board of healing arts to administer licensing program — supervision agreements — duties and liability of physicians.

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

SECTION A. ENACTING CLAUSE. — Section 334.735, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 334.735, to read as follows:

334.735. DEFINITIONS — RULES — SCOPE OF PRACTICE — PROHIBITED ACTIVITIES — BOARD OF HEALING ARTS TO ADMINISTER LICENSING PROGRAM — SUPERVISION AGREEMENTS — DUTIES AND LIABILITY OF PHYSICIANS. — 1. As used in sections 334.735 to 334.749, the following terms mean:

(1) "Applicant", any individual who seeks to become licensed as a physician assistant;

(2) "Certification" or "registration", a process by a certifying entity that grants recognition to applicants meeting predetermined qualifications specified by such certifying entity;

(3) "Certifying entity", the nongovernmental agency or association which certifies or registers individuals who have completed academic and training requirements;

(4) "Department", the department of economic development or a designated agency thereof;

(5) "License", a document issued to an applicant by the department acknowledging that the applicant is entitled to practice as a physician assistant;

(6) "Physician assistant", a person who has graduated from a physician assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or by its successor agency, who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants and has active certification by the National Commission on Certification of Physician Assistants who provides health care services delegated by a licensed physician. A person who has been employed as a physician

assistant for three years prior to August 28, 1989, who has passed the National Commission on Certification of Physician Assistants examination, and has active certification of the National Commission on Certification of Physician Assistants;

(7) "Recognition", the formal process of becoming a certifying entity as required by the provisions of sections 334.735 to 334.749;

(8) "Supervision", control exercised over a physician assistant working within the same **[**office**]** facility **[**of**]** **as** the supervising physician **sixty-six percent of the time a physician assistant provides patient care,** except a physician assistant may make follow-up patient examinations in hospitals, nursing homes**, patient homes,** and correctional facilities, each such examination being reviewed, approved and signed by the supervising physician**, except as provided by subsection 2 of this section. The supervising physician must be readily available in person or via telecommunication during the time the physician assistant is providing patient care**. The board shall promulgate rules pursuant to chapter 536, RSMo, for **[**the proximity of practice between the physician assistant and the supervising physician and**]** documentation of joint review of the physician assistant activity by the supervising physician and the physician assistant. **The physician assistant shall be limited to practice at locations where the supervising physician is no further than thirty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services. Any other provisions of this chapter notwithstanding, for up to ninety days following the effective date of rules promulgated by the board to establish the waiver process under subsection 2 of this section, any physician assistant practicing in a health professional shortage area as of April 1, 2007, shall be allowed to practice under the on-site requirements stipulated by the supervising physician on the supervising physician form that was in effect on April 1, 2007.**

2. **The board shall promulgate rules under chapter 536, RSMo, to direct the advisory commission on physician assistants to establish a formal waiver mechanism by which an individual physician-physician assistant team may apply for alternate minimum amounts of on-site supervision and maximum distance from the supervising physician. After review of an application for a waiver, the advisory commission on physician assistants shall present its recommendation to the board for its advice and consent on the approval or denial of the application. The rule shall establish a process by which the public is invited to comment on the application for a waiver, and shall specify that a waiver may only be granted if a supervising physician and physician assistant demonstrate to the board's satisfaction in accordance with its uniformly applied criteria that:**

(1) Adequate supervision will be provided by the physician for the physician assistant, given the physician assistant's training and experience and the acuity of patient conditions normally treated in the clinical setting;

(2) The physician assistant shall be limited to practice at locations where the supervising physician is no further than fifty miles by road using the most direct route available, or in any other fashion so distanced as to create an impediment to effective intervention and supervision of patient care or adequate review of services;

(3) The community or communities served by the supervising physician and physician assistant would experience reduced access to health care services in the absence of a waiver; and

(4) The applicant will practice in an area designated at the time of application as a health professional shortage area.

3. The scope of practice of a physician assistant shall consist only of the following services and procedures:

(1) Taking patient histories;

(2) Performing physical examinations of a patient;

(3) Performing or assisting in the performance of routine office laboratory and patient screening procedures;

(4) Performing routine therapeutic procedures;

(5) Recording diagnostic impressions and evaluating situations calling for attention of a physician to institute treatment procedures;

(6) Instructing and counseling patients regarding mental and physical health using procedures reviewed and approved by a licensed physician;

(7) Assisting the supervising physician in institutional settings, including reviewing of treatment plans, ordering of tests and diagnostic laboratory and radiological services, and ordering of therapies, using procedures reviewed and approved by a licensed physician;

(8) Assisting in surgery;

(9) Performing such other tasks not prohibited by law under the supervision of a licensed physician as the physician's assistant has been trained and is proficient to perform;

(10) Physician assistants shall not perform abortions.

[3.**]** **4.** Physician assistants shall not prescribe nor dispense any drug, medicine, device or therapy independent of consultation with the supervising physician, nor prescribe lenses, prisms or contact lenses for the aid, relief or correction of vision or the measurement of visual power or visual efficiency of the human eye, nor administer or monitor general or regional block anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a physician assistant supervision agreement which is specific to the clinical conditions treated by the supervising physician and the physician assistant shall be subject to the following:

(1) A physician assistant shall not prescribe controlled substances;

(2) The types of drugs, medications, devices or therapies prescribed or dispensed by a physician assistant shall be consistent with the scopes of practice of the physician assistant and the supervising physician;

(3) All prescriptions shall conform with state and federal laws and regulations and shall include the name, address and telephone number of the physician assistant and the supervising physician;

(4) A physician assistant or advanced practice nurse as defined in section 335.016, RSMo, may request, receive and sign for noncontrolled professional samples and may distribute professional samples to patients;

(5) A physician assistant shall not prescribe any drugs, medicines, devices or therapies the supervising physician is not qualified or authorized to prescribe; and

(6) A physician assistant may only dispense starter doses of medication to cover a period of time for seventy-two hours or less.

[4.**]** **5.** A physician assistant shall clearly identify himself or herself as a physician assistant and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr." or "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician assistant shall practice or attempt to practice without physician supervision or in any location where the supervising physician is not immediately available for consultation, assistance and intervention, except **as otherwise provided in this section, and** in an emergency situation, nor shall any physician assistant bill a patient independently or directly for any services or procedure by the physician assistant.

[5.**]** **6.** For purposes of this section, the licensing of physician assistants shall take place within processes established by the state board of registration for the healing arts through rule and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536, RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees, and addressing such other matters as are necessary to protect the public and discipline the profession. An application for licensing may be denied or the license of a physician assistant may be suspended or revoked by the board in the same manner and for violation of the standards as set forth by section 334.100, or such other standards of conduct set by the board by

rule or regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not be required to be licensed as physician assistants. **All applicants for physician assistant licensure who complete a physician assistant training program after January 1, 2008, shall have a master's degree from a physician assistant program.**

[6.**] 7.** "Physician assistant supervision agreement" means a written agreement, jointly agreed-upon protocols or standing order between a supervising physician and a physician assistant, which provides for the delegation of health care services from a supervising physician to a physician assistant and the review of such services.

[7.**] 8.** When a physician assistant supervision agreement is utilized to provide health care services for conditions other than acute self-limited or well-defined problems, the supervising physician or other physician designated in the supervision agreement shall see the patient for evaluation and approve or formulate the plan of treatment for new or significantly changed conditions as soon as practical, but in no case more than two weeks after the patient has been seen by the physician assistant.

[8.**] 9.** At all times the physician is responsible for the oversight of the activities of, and accepts responsibility for, health care services rendered by the physician assistant.

10. It is the responsibility of the supervising physician to determine and document the completion of at least a one-month period of time during which the licensed physician assistant shall practice with a supervising physician continuously present before practicing in a setting where a supervising physician is not continuously present.

11. No contract or other agreement shall require a physician to act as a supervising physician for a physician assistant against the physician's will. A physician shall have the right to refuse to act as a supervising physician, without penalty, for a particular physician assistant. No contract or other agreement shall limit the supervising physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any physician assistant, but this requirement shall not authorize a physician in implementing such protocols, standing orders, or delegation to violate applicable standards for safe medical practice established by hospital's medical staff.

12. Physician assistants shall file with the board a copy of their supervising physician form.

13. No physician shall be designated to serve as supervising physician for more than three full-time equivalent licensed physician assistants. This limitation shall not apply to physician assistant agreements of hospital employees providing inpatient care service in hospitals as defined in chapter 197, RSMo.

Approved June 30, 2007

HB 554 [HB 554]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Prohibits state and local entities from discriminating between licensed professional counselors

AN ACT to amend chapter 337, RSMo, by adding thereto one new section relating to licensed professional counselors.

SECTION

A. Enacting clause.

337.503. Discrimination in promulgation of regulations prohibited.

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

SECTION A. ENACTING CLAUSE. — Chapter 337, RSMo, is amended by adding thereto one new section, to be known as section 337.503, to read as follows:

337.503. DISCRIMINATION IN PROMULGATION OF REGULATIONS PROHIBITED. — No official, employee, board, commission, county, municipality, school district, agency of the state, or any other political subdivision thereof shall discriminate between persons licensed under sections 337.500 to 337.540 when promulgating regulations or when requiring or recommending services that legally may be performed by persons licensed under sections 337.500 to 337.540.

Approved June 30, 2007

HB 555 [HCS HB 555]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Revises the complaint procedure and document retention requirements when an inmate files a complaint against a licensed professional counselor or a licensed clinical social worker

AN ACT to amend chapter 337, RSMo, by adding thereto two new sections relating to licensed professional counselors and licensed clinical social workers.

SECTION

A. Enacting clause.
337.528. Confidentiality of complaint documentation, when — destruction of information permitted, when.
337.640. Documentation and disciplinary action prohibited, when — request to destroy documentation permitted, when — disclosure of complaint not required, when.

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

SECTION A. ENACTING CLAUSE. — Chapter 337, RSMo, is amended by adding thereto two new sections, to be known as sections 337.528 and 337.640, to read as follows:

337.528. CONFIDENTIALITY OF COMPLAINT DOCUMENTATION, WHEN — DESTRUCTION OF INFORMATION PERMITTED, WHEN. — 1. If the committee finds merit to a complaint by an individual incarcerated or under the care and control of the department of corrections and takes further investigative action, no documentation may appear on file or disciplinary action may be taken in regards to the licensee's license unless the provisions of subsection 2 of section 337.525 have been violated. Any case file documentation that does not result in the committee filing an action under subsection 2 of section 337.525 shall be destroyed within three months after the final case disposition by the board. No notification to any other licensing board in another state or any national registry regarding any investigative action shall be made unless the provisions of subsection 2 of section 337.525 have been violated.

2. Upon written request of the licensed professional counselor subject to a complaint, prior to August 28, 2007, by an individual incarcerated or under the care and control of the department of corrections that did not result in the committee filing an action under subsection 2 of section 337.525, the committee and the division of professional registration shall in a timely fashion:

(1) Destroy all documentation regarding the complaint;

(2) Notify any other licensing board in another state or any national registry regarding the committee's actions if they have been previously notified of the complaint; and

(3) Send a letter to the licensee that clearly states that the committee found the complaint to be unsubstantiated, that the committee has taken the requested action, and notify the licensee of the provisions of subsection 3 of this section.

3. Any person who has been the subject of an unsubstantiated complaint as provided in subsection 1 or 2 of this section shall not be required to disclose the existence of such complaint in subsequent applications or representations relating to their counseling professions.

337.640. DOCUMENTATION AND DISCIPLINARY ACTION PROHIBITED, WHEN — REQUEST TO DESTROY DOCUMENTATION PERMITTED, WHEN — DISCLOSURE OF COMPLAINT NOT REQUIRED, WHEN. — 1. If the board finds merit to a complaint by an individual incarcerated or under the care and control of the department of corrections and takes further investigative action, no documentation may appear on file or disciplinary action may be taken in regards to the licensee's license unless the provisions of subsection 2 of section 337.630 or subsection 2 of section 337.680 have been violated. Any case file documentation that does not result in the board filing an action pursuant to subsection 2 of section 337.630 or subsection 2 of section 337.680 shall be destroyed within three months after the final case disposition by the board. No notification to any other licensing board in another state or any national registry regarding any investigative action shall be made unless the provisions of subsection 2 of section 337.630 or subsection 2 of section 337.680 have been violated.

2. Upon written request of the social worker subject to a complaint, prior to August 28, 2007, by an individual incarcerated or under the care and control of the department of corrections that did not result in the board filing an action pursuant to subsection 2 of section 337.630, the board and the division of professional registration, shall in a timely fashion:

(1) Destroy all documentation regarding the complaint;

(2) Notify any other licensing board in another state or any national registry regarding the board's actions if they have been previously notified of the complaint; and

(3) Send a letter to the licensee that clearly states that the board found the complaint to be unsubstantiated, that the board has taken the requested action, and notify the licensee of the provisions of subsection 3 of this section.

3. Any person who has been the subject of an unsubstantiated complaint as provided in subsection 1 or 2 of this section shall not be required to disclose the existence of such complaint in subsequent applications or representations relating to their social work professions.

Approved June 30, 2007

HB 574 [CCS HB 574]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the St. Louis Board of Police Commissioners, the forwarding of law enforcement system records, and requirements for drawing blood to determine alcohol content

AN ACT to repeal sections 84.120, 84.170, 577.029 and 577.051, RSMo, and to enact in lieu thereof four new sections relating to Missouri uniform law enforcement system records, with a penalty provision and an emergency clause for a certain section.

SECTION

A. Enacting clause.
84.120. Police force members — qualifications — removal — delegation of jurisdiction of hearing officers, functions (St. Louis).
84.170. Police force vacancies and promotions — rules of board (St. Louis).
577.029. Chemical tests, how made, by whom, when — person tested to receive certain information, when.
577.051. Missouri uniform law enforcement system records, information entered by highway patrol, when, made available, to whom — failure to furnish records to patrol, penalty — forms and procedure for filing records.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 84.120, 84.170, 577.029, and 577.051, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 84.120, 84.170, 577.029 and 577.051, to read as follows:

84.120. POLICE FORCE MEMBERS — QUALIFICATIONS — REMOVAL — DELEGATION OF JURISDICTION OF HEARING OFFICERS, FUNCTIONS (ST. LOUIS). — **1.** No person shall be appointed or employed as policeman, turnkey, or officer of police who shall have been convicted of, or against whom any indictment may be pending, for any offense, the punishment of which may be confinement in the penitentiary; nor shall any person be so appointed who is not of good character, or who is not a citizen of the United States, or who is not able to read and write the English language, or who does not possess ordinary physical strength and courage. The patrolmen and turnkeys hereafter appointed shall serve while they shall faithfully perform their duties and possess mental and physical ability and be subject to removal only for cause after a hearing by the boards, who are hereby invested with the **[**exclusive**]** jurisdiction in the premises.

2. The board shall have the sole discretion whether to delegate portions of its jurisdiction to hearing officers. The board shall retain final and ultimate authority over such matters and over the person to whom the delegation may be made. In any hearing before the board under this section, the member involved may make application to the board to waive a hearing before the board and request that a hearing be held before a hearing officer.

3. Nothing in this section or chapter shall be construed to prohibit the board of police commissioners from delegating any task related to disciplinary matters, disciplinary hearings, or any other hearing or proceeding which could otherwise be heard by the board or concerning any determination related to whether an officer is able to perform the necessary functions of the position. Tasks related to the preceding matter may be delegated by the board to a hearing officer under the provisions of subsection 4 of this section.

4. (1) The hearing officer to whom a delegation has been made by the board may, at the sole discretion of the board, perform certain functions, including but not limited to the following:

(a) Presiding over a disciplinary matter from its inception through to the final hearing;

(b) Preparing a report to the board of police commissioners; and

(c) Making recommendations to the board of police commissioners as to the allegations and the appropriateness of the recommended discipline.

(2) The board shall promulgate rules, which may be changed from time to time as determined by the board, and shall make such rules known to the hearing officer or others.

(3) The board shall at all times retain the authority to render the final decision after a review of the relevant documents, evidence, transcripts, videotaped testimony, or report prepared by the hearing officer.

5. Hearing officers shall be selected in the following manner:

(1) The board shall establish a panel of not less than five persons, all who are to be licensed attorneys in good standing with the Missouri Bar. The composition of the panel may change from time to time at the board's discretion;

(2) From the panel, the relevant member or officer and a police department representative shall alternatively and independently strike names from the list with the last remaining name being the designated hearing officer. The board shall establish a process to be utilized for each hearing which will determine which party makes the first strike and the process may change from time to time;

(3) After the hearing officer is chosen and presides over a matter, such hearing officer shall become ineligible until all hearing officers listed have been utilized, at which time the list shall renew, subject to officers' availability.

84.170. POLICE FORCE VACANCIES AND PROMOTIONS — RULES OF BOARD (ST. LOUIS). — 1. When any vacancy shall take place in any grade of officers, it shall be filled from the next lowest grade; provided, however, that probationary patrolmen shall serve at least six months as such before being promoted to the rank of patrolman; patrolmen shall serve at least three years as such before being promoted to the rank of sergeant; sergeants shall serve at least one year as such before being promoted to the rank of lieutenant; lieutenants shall serve at least one year as such before being promoted to the rank of captain; and in no case shall the chief or assistant chief be selected from men not members of the force or below the grade of captain. Patrolmen shall serve at least three years as such before promotion to the rank of detective; the inspector shall be taken from men in the rank not below the grade of lieutenant.

2. The boards of police are hereby authorized to make all such rules and regulations, not inconsistent with sections 84.010 to 84.340, or other laws of the state, as they may judge necessary, for the appointment, employment, unciform, discipline, trial and government of the police. The said boards shall also have power to require of any officer or policeman bond with sureties when they may consider it demanded by the public interests. All lawful rules and regulations of the board shall be obeyed by the police force on pain of dismissal or such lighter punishment, either by suspension, fine, reduction or forfeiture of pay, or otherwise as the boards may adjudge.

3. The authority possessed by the board of police includes, but is not limited to, the authority to delegate portions of its powers authorized in section 84.120, including presiding over a disciplinary hearing, to a hearing officer as determined by the board.

577.029. CHEMICAL TESTS, HOW MADE, BY WHOM, WHEN — PERSON TESTED TO RECEIVE CERTAIN INFORMATION, WHEN. — A licensed physician, registered nurse, or trained medical technician at the place of his employment, acting at the request and direction of the law enforcement officer, shall withdraw blood for the purpose of determining the alcohol content of the blood, unless such medical personnel, in his good faith medical judgment, believes such procedure would endanger the life or health of the person in custody. Blood may be withdrawn only by such medical personnel, but such restriction shall not apply to the taking of a breath test, a saliva specimen, or a urine specimen. In withdrawing blood for the purpose of determining the alcohol content thereof, only a previously unused and sterile needle and sterile vessel shall be utilized and the withdrawal shall otherwise be in strict accord with accepted medical practices. **[**A nonalcoholic antiseptic shall be used for cleansing the skin prior to 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.

577.051. MISSOURI UNIFORM LAW ENFORCEMENT SYSTEM RECORDS, INFORMATION ENTERED BY HIGHWAY PATROL, WHEN, MADE AVAILABLE, TO WHOM — FAILURE TO FURNISH RECORDS TO PATROL, PENALTY — FORMS AND PROCEDURE FOR FILING RECORDS. — 1. A record of the disposition in any court proceeding involving a violation of any of the provisions of sections 577.005 to 577.023, or violation of county or municipal ordinances involving alcohol- or drug-related driving offenses shall be forwarded to the **[**Missouri state highway patrol, or at the written direction of the Missouri state highway patrol, to the**]** department of revenue, within **[**fifteen**]** **seven** days by the clerk of the court in which the proceeding was held**. The records shall be forwarded by the department of revenue within fifteen days of receipt to the Missouri state highway patrol** and shall be entered by the highway patrol **[**or department of revenue**]** in the Missouri uniform law enforcement system records. Dispositions that shall be reported are pleas of guilty, findings of guilty, suspended imposition of sentence, suspended execution of sentence, probation, conditional sentences, sentences of confinement, and any other such dispositions that may be required under state or federal regulations. The record forwarded by the clerk shall clearly show the court, the court case number, the name, address, and motor vehicle operator's or chauffeur's license number of the person who is the subject of the proceeding, the code or number identifying the particular arrest, and any court action or requirements pertaining thereto.

2. All records received by the Missouri state highway patrol or the department of revenue under the provisions of this section shall be entered in the Missouri uniform law enforcement system records and maintained by the Missouri state highway patrol. Records placed in the Missouri uniform law enforcement system under the provisions of this section shall be made available to any law enforcement officer in this state, any prosecuting or circuit attorney in this state, or to any judge of a municipal or state court upon request.

3. Any person required by this section to furnish records to the Missouri state highway patrol or department of revenue who willfully refuses to furnish such records **[**shall be**]** **is** guilty of a class C misdemeanor.

4. Records required to be filed with the Missouri state highway patrol or the department of revenue under the provisions of sections 302.225, RSMo, and 577.001 to 577.051 shall be filed beginning July 1, 1983, and no penalties for nonfiling of records shall be applied prior to July 1, 1983.

5. Forms and procedures for filing of records with the Missouri state highway patrol or department of revenue as required in this chapter shall be promulgated by the director of the department of public safety or department of revenue, as applicable, and approved by the Missouri supreme court.

6. All record-keeping procedures required under the provisions of sections 577.005 to 577.023 shall be in accordance with this section, chapter 610, RSMo, to the contrary notwithstanding.

SECTION B. EMERGENCY CLAUSE. — Because of the need to effectively administer the state's drunk driving laws, the repeal and reenactment of section 577.029 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 577.029 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 30, 2007

HB 576 [HB 576]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Designates the bobwhite quail as the official state game bird

AN ACT to amend chapter 10, RSMo, by adding thereto one new section relating to designation of the official state game bird.

SECTION
A. Enacting clause.
10.012. Bobwhite quail, official state game bird.

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 10.012, to read as follows:

10.012. BOBWHITE QUAIL, OFFICIAL STATE GAME BIRD. — The "bobwhite quail" (Colinus virginianus) is selected for and shall be known as the official game bird of the state of Missouri.

Approved July 13, 2007

HB 579 [SS HB 579]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows for the deployment of health care professionals licensed, registered, or certified in Missouri or any other state in an emergency and grants them immunity from civil damages

AN ACT to repeal sections 44.020, 44.024, and 44.100, RSMo, section 44.045 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 58, ninety-third general assembly, first regular session and section 44.045 as enacted by conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 420 & 344, ninety-third general assembly, first regular session, and to enact in lieu thereof five new sections relating to emergency management, with an emergency clause.

SECTION
A. Enacting clause.
44.020. State emergency management agency created.
44.024. Public safety director to head emergency management agency.
44.045. Health care professionals may be deployed during a state of emergency — immunity from liability, when — release of certain confidential information permitted, when.
44.045. Voluntary deployment of health care professionals during a declared emergency — certain confidential contact information may be released.
44.100. Emergency powers of governor.
44.105. Governor-declared state of emergency, suspension of certain state law provisions, when — volunteers, responsibilities of — staffing authority of the department.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 44.020, 44.024, and 44.100, RSMo, section 44.045 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 58, ninety-third general assembly, first regular session and section 44.045 as enacted by conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 420 & 344, ninety-third general assembly, first regular session, are repealed and five new sections enacted in lieu thereof, to be known as sections 44.020, 44.024, 44.045, 44.100, and 44.105, to read as follows:

44.020. STATE EMERGENCY MANAGEMENT AGENCY CREATED. — There is hereby created within the **[**military division of the executive department, office of the adjutant general**]** **department of public safety**, the "State Emergency Management Agency", for the general purpose of assisting in coordination of national, state and local activities related to emergency functions by coordinating response, recovery, planning and mitigation. This agency shall also serve as the statewide coordinator for activities associated with the National Flood Insurance Program.

44.024. PUBLIC SAFETY DIRECTOR TO HEAD EMERGENCY MANAGEMENT AGENCY. — The **[**adjutant general, subject to the direction and control of the governor,**]** **director of the department of public safety** shall be the executive head of the office of the state emergency management agency **and shall appoint a director of the state emergency management agency to manage the day-to-day operations of the office**.

44.045. HEALTH CARE PROFESSIONALS MAY BE DEPLOYED DURING A STATE OF EMERGENCY — IMMUNITY FROM LIABILITY, WHEN — 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**]** **provider** licensed, registered, or certified in this state **or any state who agrees to be so deployed as provided in this section** 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. **During an emergency declared by the governor, health care providers deployed by the governor or any state agency shall not be liable for any civil damages or administrative sanctions for any failure, in the delivery of healthcare necessitated by the emergency during deployment, to exercise the skill and learning of an ordinarily careful health care provider in similar circumstances, but shall be liable for damages due to willful and wanton acts or omissions in rendering such care**.

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**]** **insurance, financial institutions and professional registration** 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.

[44.045. VOLUNTARY DEPLOYMENT OF HEALTH CARE PROFESSIONALS DURING A DECLARED EMERGENCY — CERTAIN CONFIDENTIAL CONTACT INFORMATION MAY BE RELEASED. — 1. Subject to approval by the state emergency management agency during an emergency declared by the governor or state legislature, any health care professional licensed, registered, or certified in this state who volunteers to be so deployed may be deployed to provide care as necessitated by the emergency.

2. In a declared state of emergency, the department of health and senior services or 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.**]**

44.100. EMERGENCY POWERS OF GOVERNOR. — 1. The emergency powers of the governor shall be as follows:

(1) The provisions of this section shall be operative only during the existence of a state of emergency (referred to in this section as "emergency"). The existence of an emergency may be proclaimed by the governor or by resolution of the legislature, if the governor in his proclamation, or the legislature in its resolution, finds that a natural or man-made disaster of major proportions has actually occurred within this state, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section.

(2) Any emergency, whether proclaimed by the governor or by the legislature, shall terminate upon the proclamation thereof by the governor, or the passage by the legislature, of a resolution terminating such emergency.

(3) During the period that the state of emergency exists or continues, the governor shall:

(a) Enforce and put into operation all plans, rules and regulations relating to disasters and emergency management of resources adopted under this law and to assume direct operational control of all emergency forces and volunteers in the state;

(b) Take action and give directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this law and with the orders, rules and regulations made pursuant thereof;

(c) Seize, take or requisition to the extent necessary to bring about the most effective protection of the public:

a. Any means of transportation, other than railroads and railroad equipment and fuel, and all fuel necessary for the propulsion thereof;

b. Any communication system or part thereof necessary to the prompt and efficient functioning of the emergency management of the state;

c. All stocks of fuel;

d. Facilities for housing, feeding and hospitalization of persons, including buildings and plants;

(d) Control, restrict and regulate by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation or other means the use, sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods or services;

(e) Prescribe and direct activities in connection with but not limited to use, conservation, salvage and prevention of waste of materials, services and facilities, including production, transportation, power and communication facilities, training and supply of labor, utilization of industrial plants, health and medical care, nutrition, housing, including the use of existing and private facilities, rehabilitation, education, welfare, child care, recreation, consumer protection and other essential civil needs;

(f) To use or distribute all or any of this property among the inhabitants of the state in any area adversely affected by a natural or man-made disaster and to account to the state treasurer for any funds received thereof;

(g) To waive or suspend the operation of any statutory requirement or administrative rule regarding the licensing, certification or issuance of permits evidencing professional, mechanical or other skills;

(h) **To waive or suspend the operation of any statutory requirement or administrative rule prescribing procedures for conducting state business, where strict compliance with such requirements and rules would prevent, hinder, or delay necessary action by the department of health and senior services to respond to a declared emergency or increased health threat to the population;**

(i) In accordance with rules or regulations, to provide that all law enforcement authorities and other emergency response workers and agencies of other states who may be within this state

at the request of the governor or pursuant to state or local mutual-aid agreements or compacts shall have the same authority and possess the same powers, duties, rights, privileges and immunities as are possessed by like law enforcement authorities and emergency response workers and agencies of this state;

[(i)**] (j)** To perform and exercise such other functions, powers and duties as may be necessary to promote and secure the safety and protection of the civilian population.

2. When any property is seized, taken or requisitioned under this section, the circuit court of the county in which the property was taken may on the application of the owner thereof or on the application of the governor in cases where numerous claims may be filed, appoint three disinterested commissioners in the manner provided by section 523.040, RSMo, to assess the damages which the owners may have sustained by reason of the appropriation thereof. Upon the application the amount due because of the seizure of property shall be determined in the manner provided in chapter 523, RSMo, for the determination of damages in case of the exercise of the power of eminent domain.

44.105. GOVERNOR-DECLARED STATE OF EMERGENCY, SUSPENSION OF CERTAIN STATE LAW PROVISIONS, WHEN — VOLUNTEERS, RESPONSIBILITIES OF — STAFFING AUTHORITY OF THE DEPARTMENT. — 1. In a governor-declared state of emergency, the department of health and senior services may suspend any provision of chapters 195 and 334, RSMo, pertaining to dispensing medications. Persons who dispense medications under this section shall be trained by the department of health and senior services and shall dispense medications under the supervision of a licensed health care provider according to the department's Strategic National Stockpile Plan.

2. The department may develop effective citizen involvement to recruit, train, and accept the services of volunteers to supplement the programs administered by the department in dispensing medications to the population in the event of an emergency.

3. Volunteers recruited, trained, and accepted by the department shall comply with the department's Strategic National Stockpile Plan in dispensing medications.

4. The department may:

(1) Provide staff as deemed necessary for the effective management and development of volunteer dispensing sites deployed in response to a governor-declared emergency;

(2) Provide or assure access to professional staff as deemed necessary for the effective training and oversight of volunteers;

(3) Develop and provide to all volunteers written rules governing the job descriptions, recruitment, screening, training responsibility, utilization, and supervision of volunteers; and

(4) Educate volunteers to ensure that they understand their duties and responsibilities.

5. Non-health care professional volunteers, whose liability is not otherwise protected by section 44.045 shall be deemed unpaid employees and shall be accorded the protection of the legal expense fund and other provisions of section 105.711, RSMo.

6. As used in this section, "volunteer" means any person who, of his or her own free will, performs any assigned duties for the department of health and senior services with no monetary or material compensation.

SECTION B. EMERGENCY CLAUSE — Because of the need to immediately respond in the wake of a state of emergency, provisions of section A of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 8, 2007

HB 583 [SS SCS HCS HB 583]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the rights of victims of domestic violence and sexual assault

AN ACT to repeal sections 191.225, 431.056, 565.072, 595.030, 595.036, 595.209, RSMo, and to enact in lieu thereof twenty-one new sections relating to crime victims, with penalty provisions.

SECTION

A. Enacting clause.
191.225. Costs of medical examination of certain crime victims payable by department of health and senior services, when, conditions — evidentiary collection kits to be developed — definitions.
217.692. Eligibility for parole, offenders with life sentence, when — criteria.
431.056. Minor's ability to contract for certain purposes — conditions.
455.003. Rape crisis centers, confidentiality of information — employee competency to testify — rape crisis center defined.
455.038. Ex parte orders, notification — circuit clerks to provide information on.
537.047. Civil action for damages authorized, sexual and pornographic offenses involving a minor — statute of limitations.
565.072. Domestic assault, first degree — penalty.
566.224. Polygraph tests and psychological stress evaluator exams not permitted, when.
566.226. Identifiable information in court records to be redacted, when — access to information permitted, when.
589.660. Definitions.
589.663. Program created, purpose, procedures
589.666. Cancellation of certification, when.
589.669. Address accepted as participant's address, when.
589.672. Availability of participant addresses.
589.675. Inspection and copying of addresses, when.
589.678. Application not a public record.
589.681. Rulemaking authority.
589.683. Sunset provision.
595.030. Compensation, out-of-pocket loss requirement, maximum amount for counseling expenses — award, computation — medical care, requirements — counseling, requirements — maximum award — joint claimants, distribution — method, timing of payment determined by division.
595.036. Grievances, decision of division, review of by labor and industrial relations commission, procedure — judicial review, when.
595.209. Rights of victims and witnesses — written notification, requirements.

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

SECTION A. ENACTING CLAUSE. — Sections 191.225, 431.056, 565.072, 595.030, 595.036, 595.209, RSMo, are repealed and twenty-one new sections, to be known as sections 191.225, 217.692, 431.056, 455.003, 455.038, 537.047, 565.072, 566.224, 566.226, 589.660, 589.663, 589.666, 589.669, 589.672, 589.675, 589.678, 589.681, 589.683, 595.030, 595.036, and 595.209, to read as follows:

191.225. COSTS OF MEDICAL EXAMINATION OF CERTAIN CRIME VICTIMS PAYABLE BY DEPARTMENT OF HEALTH AND SENIOR SERVICES, WHEN, CONDITIONS — EVIDENTIARY COLLECTION KITS TO BE DEVELOPED — DEFINITIONS. — 1. The department of health and senior services shall make payments to **[**hospitals and physicians**]** **appropriate medical providers**, out of appropriations made for that purpose, to cover the **[**cost**]** **charges** of the **[**medical**]** **forensic** examination **[**not covered by insurance, Medicare or Medicaid**]** of persons who may be a victim of **[**the crime of rape as defined in section 566.030, RSMo, or a victim of a crime as defined in chapter 566, RSMo, or sections 568.020, 568.050, 568.060, 568.080, 568.090, 568.110, and 568.175, RSMo,**]** **a sexual offense** if:

(1) The victim or the victim's guardian consents in writing to the examination;

(2) The report of the examination is made on a form approved by the attorney general with the advice of the department of health and senior services; and

(3) The report of the examination is filed **[**by the victim**]** with the prosecuting attorney of the county in which the alleged incident occurred.

The appropriate medical provider shall file the report of the examination within three business days of completion of the forensic exam.

2. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The **[**hospital or physician**]** **appropriate medical provider** making the examination shall give written notice to the parent or guardian of a minor that such an examination has taken place.

3. The attorney general, with the advice of the department of health and senior services, shall develop the forms and procedures for gathering evidence **during the forensic examination** under the provisions of this section **[**and shall furnish every hospital and physician in this state with copies of such forms and procedures.

4. Reasonable hospital and physicians**] . The department of health and senior services shall develop a checklist for appropriate medical providers to refer to while providing medical treatment to victims of a sexual offense.**

4. Evidentiary collection kits shall be developed and made available, subject to appropriation, to appropriate medical providers by the highway patrol or its designees and eligible crime laboratories. Such kits shall be distributed with the forms and procedures for gathering evidence during forensic examinations of victims of a sexual offense to appropriate medical providers upon request of the provider, in the amount requested, and at no charge to the medical provider. All appropriate medical providers shall, with the written consent of the victim, perform a forensic examination using the evidentiary collection kit and forms and procedures for gathering evidence following the checklist for any person presenting as a victim of a sexual offense.

5. All appropriate medical provider charges for eligible **forensic** examinations shall be billed to and paid by the department of health and senior services. **No appropriate medical provider conducting forensic examinations and providing medical treatment to victims of sexual offenses shall charge the victim for the forensic examination. For appropriate medical provider charges related to the medical treatment of victims of sexual offenses, if the victim is an eligible claimant under the crime victims' compensation fund, the appropriate medical provider shall seek compensation under sections 595.010 to 595.075, RSMo.**

6. For purposes of this section, the following terms mean:

(1) "Appropriate medical provider", any licensed nurse, physician, or physician assistant, and any institution employing licensed nurses, physicians, or physician assistants; provided that such licensed professionals are the only persons at such institution to perform tasks under the provisions of this section;

(2) "Evidentiary collection kit", a kit used during a forensic examination that includes materials necessary for appropriate medical providers to gather evidence in accordance with the forms and procedures developed by the attorney general for forensic examinations;

(3) "Forensic examination", an examination performed by an appropriate medical provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection kit;

(4) "Medical treatment", the treatment of all injuries and health concerns resulting directly from a patient's sexual assault or victimization.

217.692. ELIGIBILITY FOR PAROLE, OFFENDERS WITH LIFE SENTENCE, WHEN — CRITERIA. — 1. Notwithstanding any other provision of law to the contrary, any offender incarcerated in a correctional institution serving any sentence of life with no parole for fifty years or life without parole, whose plea of guilt was entered or whose trial commenced prior to December 31, 1990, and who:

(1) Pleaded guilty to or was found guilty of a homicide of a spouse or domestic partner;

(2) Has no prior violent felony convictions;

(3) No longer has a cognizable legal claim or legal recourse; and

(4) Has a history of being a victim of continual and substantial physical or sexual domestic violence that was not presented as an affirmative defense at trial or sentencing and such history can be corroborated with evidence of facts or circumstances which existed at the time of the alleged physical or sexual domestic violence of the offender, including but not limited to witness statements, hospital records, social services records, and law enforcement records;

shall be eligible for parole after having served fifteen years of such sentence when the board determines by using the guidelines established by this section, that there is a strong and reasonable probability that the person will not thereafter violate the law.

2. The board of probation and parole shall give a thorough review of the case history and prison record of any offender described in subsection 1 of this section. At the end of the board's review, the board shall provide the offender with a copy of a statement of reasons for its parole decision.

3. Any offender released under the provisions of this section shall be under the supervision of the parole board for an amount of time to be determined by the board.

4. The parole board shall consider, but not be limited to the following criteria when making its parole decision:

(1) Length of time served;

(2) Prison record and self-rehabilitation efforts;

(3) Whether the history of the case included corroborative material of physical, sexual, mental, or emotional abuse of the offender, including but not limited to witness statements, hospital records, social service records, and law enforcement records;

(4) If an offer of a plea bargain was made and if so, why the offender rejected or accepted the offer;

(5) Any victim information outlined in subsection 7 of section 217.690 and section 595.209, RSMo;

(6) The offender's continued claim of innocence;

(7) The age and maturity of the offender at the time of the board's decision;

(8) The age and maturity of the offender at the time of the crime and any contributing influence affecting the offender's judgment;

(9) The presence of a workable parole plan; and

(10) Community and family support.

5. Nothing in this section shall limit the review of any offender's case who is eligible for parole prior to fifteen years, nor shall it limit in any way the parole board's power to grant parole prior to fifteen years.

6. Nothing in this section shall limit the review of any offender's case who has applied for executive clemency, nor shall it limit in any way the governor's power to grant clemency.

7. It shall be the responsibility of the offender to petition the board for a hearing under this section.

8. A person commits the crime of perjury if he or she, with the purpose to deceive, knowingly makes a false witness statement to the board. Perjury under this section shall be a class C felony.

9. In cases where witness statements alleging physical or sexual domestic violence are in conflict as to whether such violence occurred or was continual and substantial in nature, the history of such alleged violence shall be established by other corroborative evidence in addition to witness statements, as provided by subsection 1 of this section. A contradictory statement of the victim shall not be deemed a conflicting statement for purposes of this section.

431.056. MINOR'S ABILITY TO CONTRACT FOR CERTAIN PURPOSES — CONDITIONS. — A minor shall be qualified and competent to contract for housing, employment, purchase of an automobile, receipt of a student loan, admission to high school or postsecondary school, obtaining medical care, establishing a bank account **[**and**] ,** admission to a shelter for victims of domestic violence, as defined in section 455.200, RSMo, or a homeless shelter**, and receipt of services as a victim of domestic and sexual violence, including but not limited to counseling, court advocacy, financial assistance, and other advocacy services,** if:

(1) The minor is sixteen or seventeen years of age; and

(2) The minor is homeless, as defined in subsection 1 of section 167.020, RSMo, or a victim of domestic violence, as defined in section 455.200, RSMo, unless the child is under the supervision of the children's division or the jurisdiction of the juvenile court; and

(3) The minor is self-supporting, such that the minor is without the physical or financial support of a parent or legal guardian; and

(4) The minor's parent or legal guardian has consented to the minor living independent of the parents' or guardians' control. Consent may be expressed or implied, such that:

(a) Expressed consent is any verbal or written statement made by the parents or guardian of the minor displaying approval or agreement that the minor may live independently of the parent's or guardian's control;

(b) Implied consent is any action made by the parent or guardian of the minor that indicates the parent or guardian is unwilling or unable to adequately care for the minor. Such actions may include, but are not limited to:

a. Barring the minor from the home or otherwise indicating that the minor is not welcome to stay;

b. Refusing to provide any or all financial support for the minor; or

c. Abusing or neglecting the minor, as defined in section 210.110, RSMo.

455.003. RAPE CRISIS CENTERS, CONFIDENTIALITY OF INFORMATION — EMPLOYEE COMPETENCY TO TESTIFY — RAPE CRISIS CENTER DEFINED. — 1. A rape crisis center shall:

(1) Require persons employed by or volunteering services to the rape crisis center to maintain confidentiality of any information that would identify individuals served by the center and any information or records that are directly related to the advocacy services provided to such individuals; and

(2) Prior to providing any advocacy services, inform individuals served by the rape crisis center of the nature and scope of the confidentiality requirements of subdivision (1) of this subsection.

2. Any person employed by or volunteering services to a rape crisis center for victims of sexual assault shall be incompetent to testify concerning any confidential information in subsection 1 of this section, unless the confidentiality requirements is waived in writing by the individual served by the center.

3. As used in this section, the term "rape crisis center" shall mean any public or private agency that offers assistance to victims of sexual assault, as the term "sexual assault" is defined in section 455.010, who are adults, as defined by section 455.010, or qualified minors, as defined by section 431.056, RSMo.

455.038. EX PARTE ORDERS, NOTIFICATION — CIRCUIT CLERKS TO PROVIDE INFORMATION ON. — Every circuit clerk shall be responsible for providing information to individuals petitioning for ex parte orders of protection regarding notification of service of these orders of protection. Such notification to the petitioner is required if the petitioner has registered a telephone number with the victim notification system, established under subsection 3 of section 650.310, RSMo. The petitioner shall be informed of his or her option to receive notification of service of an ex parte order of protection on the respondent by the circuit clerk and shall be provided information on how to receive notification of service of ex parte orders of protection. The local law enforcement agency or any other government agency responsible for serving ex parte orders of protection shall notify the circuit clerk when no more service attempts are planned by that agency. The provisions of this section shall only apply to those circuit clerks able to access a statewide victim notification system designed to provide notification of service of orders of protection.

537.047. CIVIL ACTION FOR DAMAGES AUTHORIZED, SEXUAL AND PORNOGRAPHIC OFFENSES INVOLVING A MINOR — STATUTE OF LIMITATIONS. — 1. Any person who, while a child or minor as defined by section 573.010, RSMo, was a victim of a violation of sections 573.023, 573.025, 573.035, or 573.037, RSMo, and who suffers physical or psychological injury or illness as a result of such violation, shall be entitled to bring a civil action to recover the actual damages sustained as a result of the violation, and shall also be entitled to recover the costs of the civil action and reasonable fees for attorneys and expert witnesses. A psychological injury or illness as described under this section need not be accompanied by physical injury or illness.

2. Any action described under this section shall be commenced within ten years of the plaintiff attaining the age of twenty-one, or within three years of the date the plaintiff discovers that the injury or illness was caused by the violation of an offense enumerated in subsection one of this section, whichever later occurs.

3. A cause of action under this section may arise only if the violation that caused the injury occurs on or after August 28, 2007.

565.072. DOMESTIC ASSAULT, FIRST DEGREE — PENALTY. — 1. A person commits the crime of domestic assault in the first degree if he or she attempts to kill or knowingly causes or attempts to cause serious physical injury to a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in section 455.010, RSMo.

2. Domestic assault in the first degree is a class B felony unless in the course thereof the actor inflicts serious physical injury on the victim **or has previously pleaded guilty to or been found guilty of committing this crime,** in which case it is a class A felony.

566.224. POLYGRAPH TESTS AND PSYCHOLOGICAL STRESS EVALUATOR EXAMS NOT PERMITTED, WHEN. — No prosecuting or circuit attorney, peace officer, governmental official, or employee of a law enforcement agency shall request or require a victim of sexual assault under section 566.040 or forcible rape under section 566.030 to submit to any polygraph test or psychological stress evaluator exam as a condition for proceeding with a criminal investigation of such crime.

566.226. IDENTIFIABLE INFORMATION IN COURT RECORDS TO BE REDACTED, WHEN — ACCESS TO INFORMATION PERMITTED, WHEN. — 1. After August 28, 2007, any information contained in any court record, whether written or published on the Internet, that could be used to identify or locate any victim of sexual assault, domestic assault, stalking, or forcible rape shall be closed and redacted from such record prior to disclosure to the

public. Identifying information shall include the name, home or temporary address, telephone number, social security number or physical characteristics.

2. If the court determines that a person or entity who is requesting identifying information of a victim has a legitimate interest in obtaining such information, the court may allow access to the information, but only if the court determines that disclosure to the person or entity would not compromise the welfare or safety of such victim.

589.660. DEFINITIONS. — As used in sections 589.660 to 589.681, the following terms mean:

(1) "Address", a residential street address, school address, or work address of a person, as specified on the person's application to be a program participant;

(2) "Application assistant", an employee of a state or local agency, or of a nonprofit program that provides counseling, referral, shelter, or other specialized service to victims of domestic violence, rape, sexual assault, or stalking, who has been designated by the respective agency or program, and who has been trained and registered by the secretary of state to assist individuals in the completion of program participation applications;

(3) "Designated address", the address assigned to a program participant by the secretary;

(4) "Mailing address", an address that is recognized for delivery by the United States Postal Service;

(5) "Program", the address confidentiality program established in section 589.663;

(6) "Program participant", a person certified by the secretary of state as eligible to participate in the address confidentiality program;

(7) "Secretary", the secretary of state.

589.663. PROGRAM CREATED, PURPOSE, PROCEDURES — There is created in the office of the secretary of state a program to be known as the "Address Confidentiality Program" to protect victims of domestic violence, rape, sexual assault, or stalking by authorizing the use of designated addresses for such victims and their minor children. The program shall be administered by the secretary under the following application and certification procedures:

(1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person may apply to the secretary to have a designated address assigned by the secretary to serve as the person's address or the address of the minor or incapacitated person;

(2) The secretary may approve an application only if it is filed with the office of the secretary in the manner established by rule and on a form prescribed by the secretary. A completed application shall contain:

(a) The application preparation date, the applicant's signature, and the signature and registration number of the application assistant who assisted the applicant in applying to be a program participant;

(b) A designation of the secretary as agent for purposes of service of process and for receipt of first-class mail, legal documents, and certified mail;

(c) A sworn statement by the applicant that the applicant has good reason to believe that he or she:

a. Is a victim of domestic violence, rape, sexual assault, or stalking; and

b. Fears further violent acts from his or her assailant;

(d) The mailing address where the applicant may be contacted by the secretary or a designee and the telephone number or numbers where the applicant may be called by the secretary or the secretary's designee; and

(e) One or more addresses that the applicant requests not be disclosed for the reason that disclosure will jeopardize the applicant's safety or increase the risk of violence to the applicant or members of the applicant's household;

(3) Upon receipt of a properly completed application, the secretary may certify the applicant as a program participant. A program participant is certified for four years following the date of initial certification unless the certification is withdrawn or cancelled before that date. The secretary shall send notification of lapsing certification and a reapplication form to a program participant at least four weeks prior to the expiration of the program participant's certification;

(4) The secretary shall forward first-class mail, legal documents, and certified mail to the appropriate program participants.

589.666. CANCELLATION OF CERTIFICATION, WHEN. — Certification of a program participant may be cancelled by the secretary if one or more of the following conditions apply:

(1) If the program participant obtains a name change, unless the program participant provides the secretary with documentation of a legal name change within ten business days of the name change;

(2) If there is a change in the mailing address from the person listed on the application, unless the program participant provides the secretary with notice of the change in such manner as the secretary provides by rule; or

(3) The applicant or program participant violates subsection 2 of section 589.663.

589.669. ADDRESS ACCEPTED AS PARTICIPANT'S ADDRESS, WHEN. — Upon demonstration of a program participant's certification in the program, state and local agencies and the courts shall accept the designated address as a program participant's address when creating a new public record unless the secretary has determined that:

(1) The agency has a bona fide statutory or administrative requirement for the use of the program participant's address or mailing address, such that it is unable to fulfill its statutory duties and obligations without the address; and

(2) The program participant's address or mailing address shall be used only for those statutory and administrative purposes.

589.672. AVAILABILITY OF PARTICIPANT ADDRESSES. — If the secretary deems it appropriate, the secretary may make a program participant's address or mailing address available for inspection or copying, under the following circumstances:

(1) If requested of the secretary by a law enforcement agency in the manner provided for by rule; or

(2) Upon request to the secretary by a director of a state agency or the director's designee in the manner provided for by rule and upon a showing of a bona fide statutory or administrative requirement for the use of the program participant's address or mailing address, such that the director or the director's designee is unable to fulfill statutory duties and obligations without the address or mailing address.

589.675. INSPECTION AND COPYING OF ADDRESSES, WHEN. — If the secretary deems it appropriate, the secretary shall make a program participant's address and mailing address available for inspection or copying under the following circumstances:

(1) To a person identified in a court order, upon the secretary's receipt of such court order that specifically orders the disclosure of a particular program participant's address and mailing address and the reasons stated for the disclosure; or

(2) If the certification has been cancelled because the applicant or program participant violated subsection 2 of section 589.663.

589.678. APPLICATION NOT A PUBLIC RECORD. — A program participant's application and supporting materials are not a public record and shall be kept confidential by the secretary.

589.681. RULEMAKING AUTHORITY. — The secretary shall promulgate rules to establish and administer the address confidentiality program. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 589.660 to 589.681 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

589.683. SUNSET PROVISION. — Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

(1) Any new program authorized under sections 589.660 to 589.681 shall automatically sunset six years after the effective date of sections 589.660 to 589.681 unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under sections 589.660 to 589.681 shall automatically sunset twelve years after the effective date of the reauthorization of sections 589.660 to 589.681; and

(3) Sections 589.660 to 589.681 shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under sections 589.660 to 589.681 is sunset.

595.030. COMPENSATION, OUT-OF-POCKET LOSS REQUIREMENT, MAXIMUM AMOUNT FOR COUNSELING EXPENSES — AWARD, COMPUTATION — MEDICAL CARE, REQUIREMENTS — COUNSELING, REQUIREMENTS — MAXIMUM AWARD — JOINT CLAIMANTS, DISTRIBUTION — METHOD, TIMING OF PAYMENT DETERMINED BY DIVISION. — 1. No compensation shall be paid unless the claimant has incurred an out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or unreimbursable expenses or indebtedness reasonably incurred**:**

(1) For medical care or other services, including psychiatric, psychological or counseling expenses, necessary as a result of the crime upon which the claim is based, except that the amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not exceed two thousand five hundred dollars**; or**

(2) As a result of personal property being seized in an investigation by law enforcement. Compensation paid for an "out-of-pocket loss" under this subdivision shall be in an amount equal to the loss sustained, but shall not exceed two hundred fifty dollars.

2. No compensation shall be paid unless the division of workers' compensation finds that a crime was committed, that such crime directly resulted in personal physical injury to, or the death of, the victim, and that police records show that such crime was promptly reported to the proper authorities. In no case may compensation be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, unless the division of workers' compensation finds that the report to the police was delayed for good cause. If the victim is under eighteen years of age such report may be made by the victim's parent, guardian or custodian; by a physician, a nurse, or hospital emergency room personnel; by the division of family services personnel; or by any other member of the victim's family. **In the case of a sexual offense, filing a report of the offense to the proper authorities may include, but not be limited to, the filing of the report of the forensic examination by the appropriate medical provider, as defined in section 191.225, RSMo, with the prosecuting attorney of the county in which the alleged incident occurred.**

3. No compensation shall be paid for medical care if the service provider is not a medical provider as that term is defined in section 595.027, and the individual providing the medical care is not licensed by the state of Missouri or the state in which the medical care is provided.

4. No compensation shall be paid for psychiatric treatment or other counseling services, including psychotherapy, unless the service provider is a:

(1) Physician licensed pursuant to chapter 334, RSMo, or licensed to practice medicine in the state in which the service is provided;

(2) Psychologist licensed pursuant to chapter 337, RSMo, or licensed to practice psychology in the state in which the service is provided;

(3) Clinical social worker licensed pursuant to chapter 337, RSMo; or

(4) Professional counselor licensed pursuant to chapter 337, RSMo.

5. Any compensation paid pursuant to sections 595.010 to 595.075 for death or personal injury shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or support from gainful employment, not to exceed two hundred dollars per week, resulting from such injury or death. In the event of death of the victim, an award may be made for reasonable and necessary expenses actually incurred for preparation and burial not to exceed five thousand dollars.

6. Any compensation for loss of earnings or support from gainful employment shall be in an amount equal to the actual loss sustained not to exceed two hundred dollars per week; provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed twenty-five thousand dollars. If two or more persons are entitled to compensation as a result of the death of a person which is the direct result of a crime or in the case of a sexual assault, the compensation shall be apportioned by the division of workers' compensation among the claimants in proportion to their loss.

7. The method and timing of the payment of any compensation pursuant to sections 595.010 to 595.075 shall be determined by the division.

595.036. GRIEVANCES, DECISION OF DIVISION, REVIEW OF BY LABOR AND INDUSTRIAL RELATIONS COMMISSION, PROCEDURE — JUDICIAL REVIEW, WHEN. — 1. **Any party aggrieved by a decision of the department on a claim under the provisions of sections 595.010 to 595.070 may, within thirty days following the date of notification of mailing of such decision, file a petition with the division of workers' compensation of the department of labor and industrial relations to have such decision heard de novo by an administrative law judge. The administrative law judge may affirm, reverse, or set aside the decision of the department of public safety on the basis of the evidence previously submitted in such case or may take additional evidence or may remand the matter to the department of public safety with directions. The division of workers' compensation shall promptly notify the parties of its decision and the reasons therefor.**

2. Any of the parties to a decision of **an administrative law judge of** the division of workers' compensation**, as provided by subsection 1 of this section,** on a claim heard under the provisions of sections 595.010 to 595.070 may, within thirty days following the date of notification or mailing of such decision, file a petition with the labor and industrial relations commission to have such decision reviewed by the commission. The commission may allow or deny a petition for review. If a petition is allowed, the commission may affirm, reverse, or set aside the decision of the division of workers' compensation on the basis of the evidence previously submitted in such case or may take additional evidence or may remand the matter to the division of workers' compensation with directions. The commission shall promptly notify the parties of its decision and the reasons therefor.

[2.**] 3.** Any petition for review filed pursuant to subsection 1 of this section shall be deemed to be filed as of the date endorsed by the United States Postal Service on the envelope or container in which such petition is received.

[3.**] 4.** Any party who is aggrieved by a final decision of the labor and industrial relations commission pursuant to the provisions of subsections **[**1 and**]** 2 **and 3** of this section **[**may seek judicial review thereof, as provided in sections 536.100 to 536.140, RSMo**] shall within thirty days from the date of the final decision, appeal the decision to the court of appeals. Such**

appeal may be taken by filing notice of appeal with commission, whereupon the commission shall, under its certificate, return to the court all documents and papers on file in the matter, together with a transcript of the evidence, the findings and award, which shall thereupon become the record of the cause. Upon appeal no additional evidence shall be heard and, in the absence of fraud, the findings of fact made by the commission within its powers shall be conclusive and binding. The court, on appeal, shall review only questions of law and may modify, reverse, remand for rehearing, or set aside the award upon any of the following grounds and no other:

(1) That the commission acted without or in excess of its powers;

(2) That the award was procured by fraud;

(3) That the facts found by the commission do not support the award;

(4) That there was not sufficient competent evidence in the record to warrant the making of the award.

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**, or a statement by counsel or a representative designated by the victim on behalf of the victim** in lieu of a personal appearance, the right to be informed by the board of probation and parole of probation revocation hearings initiated by the board and of parole hearings, the right to be present at each and every phase of parole hearings **[**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 have, upon written request of the victim, a partition set up in the probation or parole hearing room in such a way that the victim is shielded from the view of the probationer or parolee,** and the right to be informed by the custodial mental health facility or agency thereof of any hearings for the release of a person committed pursuant to the provisions of chapter 552, RSMo, the right to be present at such hearings, the right to be heard at such hearings or to offer a written statement, video or audio tape**, or a statement by counsel or a representative designated by the victim** in lieu of personal appearance;

(7) For victims and witnesses, upon their written request, the right to be informed by the appropriate custodial authority, including any municipal detention facility, juvenile detention facility, county jail, correctional facility operated by the department of corrections, mental health facility, division of youth services or agency thereof if the offense would have been a felony if committed by an adult, postconviction or commitment pursuant to the provisions of chapter 552, RSMo, of the following:

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

(b) Any release of such person on bond;

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

(d) Any scheduled parole or release hearings, including hearings under section 217.362, RSMo, regarding such person and any changes in the scheduling of such hearings. No such hearing shall be conducted without thirty days' advance notice;

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

(f) Any decision by a parole board, by a juvenile releasing authority or by a circuit court presiding over releases pursuant to the provisions of chapter 552, RSMo, or by a circuit court presiding over releases under section 217.362, RSMo, to release such person or any decision by the governor to commute the sentence of such person or pardon such person;

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

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

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

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

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

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

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

(14) An employer may not discharge or discipline any witness, victim or member of a victim's immediate family for honoring a subpoena to testify in a criminal proceeding**, attending a criminal proceeding,** or for participating in the preparation of a criminal proceeding**, or require any witness, victim, or member of a victim's immediate family to use vacation time, personal time, or sick leave for honoring a subpoena to testify in a criminal proceeding, attending a criminal proceeding, or participating in the preparation of a criminal proceeding**;

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

(16) For victims and witnesses, the right to speedy disposition of their cases, and for victims, the right to speedy appellate review of their cases, provided that nothing in this subdivision shall prevent the defendant from having sufficient time to prepare such defendant's defense. The attorney general shall provide victims, upon their written request, case status information throughout the appellate process of their cases. The provisions of this subdivision shall apply only to proceedings involving the particular case to which the person is a victim or witness;

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

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

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

4. Notification by the appropriate person or agency utilizing the statewide automated crime victim notification system as established in section 650.310, RSMo, shall constitute compliance with the victim notification requirement of this section. If notification utilizing the statewide automated crime victim notification system cannot be used, then written notification shall be sent by certified mail to the most current address provided by the victim.

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

Approved July 12, 2007

HB 616 [HCS HB 616]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Removes the county assessor from a county board of equalization and requires the county commission to appoint two additional members to the board

AN ACT to repeal sections 138.010 and 138.135, RSMo, and to enact in lieu thereof two new sections relating to county boards of equalization.

SECTION
A. Enacting clause.
138.010. Membership of county board of equalization — annual meetings.
138.135. Assessor not to be member of board of equalization — assessment to remain same, when — majority of board not in attendance, effect (St. Louis County).

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

SECTION A. ENACTING CLAUSE. — Sections 138.010 and 138.135, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 138.010 and 138.135, to read as follows:

138.010. MEMBERSHIP OF COUNTY BOARD OF EQUALIZATION — ANNUAL MEETINGS. — 1. Except as otherwise provided by law, in every county in this state there shall be a county board of equalization consisting of the commissioners of the county commission, the county assessor **as a nonvoting member**, the county surveyor, and the county clerk who shall be secretary of the board without a vote. The county commissioners shall also **[**have the option to**]** appoint two additional members to the board who shall be citizens of the county, but not officers of the county **and, for such additional members appointed after August 28, 2007, not related to any member of the county board of equalization within the third degree of consanguinity, who shall have some level of experience as determined by the county commission as a real estate broker, real estate appraiser, home builder, property developer, lending officer, or investor in real estate before such member's appointment to the board. The assessor or a member of the assessor's staff shall be present at all board of equalization hearings, and shall have the right to present evidence pertaining to any assessment matter before the board**.

2. Except as provided in subsection 3 of this section, this board shall meet at the office of the county clerk on the second Monday of July of each year.

3. Upon a finding by the board that it is necessary in order to fairly hear all cases arising from a general reassessment, the board may begin meeting after May thirty-first in any applicable year to timely consider any appeal or complaint resulting from an evaluation made during a general reassessment of all taxable real property and possessory interests in the county.

138.135. ASSESSOR NOT TO BE MEMBER OF BOARD OF EQUALIZATION — ASSESSMENT TO REMAIN SAME, WHEN — MAJORITY OF BOARD NOT IN ATTENDANCE, EFFECT (ST. LOUIS COUNTY). — 1. Notwithstanding **[**the provisions of section 138.010, or**]** any other provision of law to the contrary, the county assessor of any county of the first classification with a population of at least nine hundred thousand inhabitants shall not be a member of the county board of equalization.

2. In any county of the first classification with a population of at least nine hundred thousand inhabitants, **[**where**] when there is** an order of the board of equalization or the state tax commission, including a settlement order, relating to the assessment of property, the

assessment shall remain the same for the subsequent even-numbered year unless there has been new construction or property improvements between January first of the odd-numbered year and January first of the following even-numbered year.

3. In any county of the first classification with a population of at least nine hundred thousand inhabitants, **[**where**] when** a hearing is conducted by the board of equalization pursuant to this chapter, if the property owner requests **[**that he**] to** be heard by a majority of the board of equalization, and a majority of the board of equalization is not in attendance for any reason, the position of the property owner shall prevail without further action.

Approved June 13, 2007

HB 619 [SCS HCS HB 619 & 118]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Specifies the situations in which the Civil Air Patrol may be activated, which missions are federal or state, and who pays for the missions

AN ACT to amend chapter 41, RSMo, by adding thereto one new section relating to the civil air patrol.

SECTION
A. Enacting clause.
41.970. Civil air patrol, use in support of national guard missions — definitions — procedure for activation.

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 41.970, to read as follows:

41.970. CIVIL AIR PATROL, USE IN SUPPORT OF NATIONAL GUARD MISSIONS — DEFINITIONS — PROCEDURE FOR ACTIVATION. — 1. As used in this section the following terms shall mean:

(1) "Civil air patrol", the civilian auxiliary of the United States Air Force established by the United States Congress in 36 U.S.C. Section 40301 et seq. and 10 U.S.C. Section 9441 et seq. Civil air patrol missions include search and rescue, disaster relief, and aerial reconnaissance;

(2) "Office of air search and rescue", as established by section 41.960, within military division of the executive department, office of adjutant general, the wing commander of Missouri wing, civil air patrol; Missouri wing emergency service personnel; and others as necessary for duties assigned to the office.

2. The civil air patrol may be used to support national guard missions in support of civil authorities or in support of noncombatant national guard missions, and to support state agencies under memorandums of understanding (MOU) or agreements established between the agencies and the civil air patrol.

3. Requests for activation or support of the civil air patrol shall be made to the commander of the Missouri wing of the civil air patrol. Missions shall be in accordance with laws and regulations applicable to the United States Air Force and the civil air patrol. Prior to activation of the civil air patrol, the adjutant general or the Missouri civil air patrol wing commander shall apply to the Air Force Rescue Coordination Center, the Air Force National Security Emergency Preparedness Agency, or the civil air patrol national operations center for federal mission status and funding.

4. If an operation or mission of the civil air patrol is granted funded federal mission status and assigned an accompanying federal mission number, the following shall apply:

(1) The operation or mission shall be funded by the federal government;

(2) When training or operating under a federal mission number, the members of the civil air patrol shall be considered federal employees for the purposes of tort claims and workers' compensation arising from the performance of the mission or any actions incident to the performance of the mission.

5. If an operation or mission of the civil air patrol is not granted federal mission status and is not assigned an accompanying federal mission number, the following shall apply:

(1) Except for missions and operations supporting the department of public safety or the office of adjutant general, all requests for activation and authorization for any mission or operation of the civil air patrol on behalf of state agencies shall first be approved by the department director of the requesting agency, the adjutant general and the commissioner of administration;

(2) Operations and administration of the civil air patrol relating to missions within the state and for state agencies not qualifying for funded federal mission status shall be funded by the state from moneys appropriated to the requesting state agency for that purpose;

(3) When performing a mission within the state and for state agencies that do not qualify for funded federal mission status, members of the civil air patrol shall be considered state employees for purposes of the state legal expense fund as provided under section 105.711, RSMo, and for purposes of workers' compensation coverage, as provided under section 105.810, RSMo;

(4) The procedures in this section apply to any civil air patrol personnel and aircraft from any state that are flying or otherwise supporting missions for Missouri state agencies;

(5) Notwithstanding the provisions of this section to the contrary, emergency operations or missions as determined by the commander of the Missouri wing of the civil air patrol and approved by the adjutant general may be conducted pending funding authorization for federal, state, or other sources.

Approved July 13, 2007

HB 654 [HCS HB 654 & 938]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Exempts the property of a veterans' organization from real and personal property taxes, increases the amount of matching grants for veterans' programs, and establishes the Stolen Valor Act of 2007

AN ACT to repeal sections 137.100, 137.101, and 313.835, RSMo, and to enact in lieu thereof four new sections relating to veterans, with penalty provisions.

SECTION

A. Enacting clause.
137.100. Certain property exempt from taxes.
137.101. Charitable organizations, exemption from property taxes — assessor's duties.
313.835. Gaming commission fund created, purpose, expenditures — veterans' commission capital improvement trust fund, created, purpose, funding — disposition of proceeds of gaming commission fund — early childhood development education and care fund, created, purpose, funding, study, rules — grants for veterans' service officer program.

578.510. Misuse of military medals, penalty — misrepresentation of awarding of military medals, penalty — fraudulent use of the title of veteran, penalty.

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

SECTION A. ENACTING CLAUSE. — Sections 137.100, 137.101, and 313.835, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 137.100, 137.101, 313.835 and 578.510, to read as follows:

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**;**

(9) All property, real and personal, belonging to veterans' organizations. As used in this section, "veterans' organization" means any organization of veterans with a congressional charter, that is incorporated in this state, and that is exempt from taxation under section 501(c)(19) of the Internal Revenue Code of 1986, as amended.

137.101. CHARITABLE ORGANIZATIONS, EXEMPTION FROM PROPERTY TAXES — ASSESSOR'S DUTIES. — 1. The activities of nationally affiliated fraternal, benevolent, **[**veteran,**]** or service organizations which promote good citizenship, humanitarian activities, or improve the physical, mental, and moral condition of an indefinite number of people **[**or**]** **are** purposes purely charitable within the meaning of subsection 1 of section 6 of article X of the constitution and local assessing authorities may exempt such portion of the real and personal property of such organizations as the assessing authority may determine is utilized in purposes purely charitable from the assessment, levy, and collection of taxes.

2. If, at any time, an assessor finally determines, after any and all hearings or rightful appeals, that personal property, upon which an organization would otherwise owe taxes but for the provisions of subsection 1 of this section or subdivision (5) of section 137.100, is not used for purposes purely charitable, or for purposes described in subdivision (5) of section 137.100, then the assessor shall notify the department of revenue of such final determination within thirty days.

313.835. GAMING COMMISSION FUND CREATED, PURPOSE, EXPENDITURES — VETERANS' COMMISSION CAPITAL IMPROVEMENT TRUST FUND, CREATED, PURPOSE, FUNDING — DISPOSITION OF PROCEEDS OF GAMING COMMISSION FUND — EARLY CHILDHOOD DEVELOPMENT EDUCATION AND CARE FUND, CREATED, PURPOSE, FUNDING, STUDY, RULES — GRANTS FOR VETERANS' SERVICE OFFICER PROGRAM. — 1. All revenue received by the commission from license fees, penalties, administrative fees, reimbursement by any excursion gambling boat operators for services provided by the commission and admission fees authorized pursuant to the provisions of sections 313.800 to 313.850, except that portion of the admission fee, not to exceed one cent, that may be appropriated to the compulsive gamblers fund as provided in section 313.820, shall be deposited in the state treasury to the credit of the "Gaming Commission Fund" which is hereby created for the sole purpose of funding the administrative costs of the commission, subject to appropriation. Moneys deposited into this fund shall not be considered proceeds of gambling operations. Moneys deposited into the gaming commission fund shall be considered state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the gaming commission fund shall be credited to the gaming commission fund. In each fiscal year, total revenues to the gaming commission fund for the preceding fiscal year shall be compared to total expenditures and transfers from the gaming commission fund for the preceding fiscal year. The remaining net proceeds in the gaming commission fund shall be distributed in the following manner:

(1) The first five hundred thousand dollars shall be appropriated on a per capita basis to cities and counties that match the state portion and have demonstrated a need for funding community neighborhood organization programs for the homeless and to deter gang-related violence and crimes;

(2) The remaining net proceeds in the gaming commission fund for fiscal year 1998 and prior years shall be transferred to the "Veterans' Commission Capital Improvement Trust Fund", as hereby created in the state treasury. The state treasurer shall administer the veterans' commission capital improvement trust fund, and the moneys in such fund shall be used solely, upon appropriation, by the Missouri veterans' commission for:

(a) The construction, maintenance or renovation or equipment needs of veterans' homes in this state;

(b) The construction, maintenance, renovation, equipment needs and operation of veterans' cemeteries in this state;

(c) Fund transfers to Missouri veterans' homes fund established pursuant to the provisions of section 42.121, RSMo, as necessary to maintain solvency of the fund;

(d) Fund transfers to any municipality with a population greater than four hundred thousand and located in part of a county with a population greater than six hundred thousand in this state which has established a fund for the sole purpose of the restoration, renovation and maintenance

of a memorial or museum or both dedicated to World War I. Appropriations from the veterans' commission capital improvement trust fund to such memorial fund shall be provided only as a one-time match for other funds devoted to the project and shall not exceed five million dollars. Additional appropriations not to exceed ten million dollars total may be made from the veterans' commission capital improvement trust fund as a match to other funds for the new construction or renovation of other facilities dedicated as veterans' memorials in the state. All appropriations for renovation, new construction, reconstruction, and maintenance of veterans' memorials shall be made only for applications received by the Missouri veterans' commission prior to July 1, 2004;

(e) The issuance of matching fund grants for veterans' service officer programs to any federally chartered veterans' organization or municipal government agency that is certified by the Veterans Administration to process veteran claims within the Veterans Administration System; provided that such veterans' organization has maintained a veterans' service officer presence within the state of Missouri for the three-year period immediately preceding the issuance of any such grant. A total of **[**seven hundred fifty thousand**] one million** dollars in grants shall be made available annually with grants being issued in July of each year. Application for the matching grants shall be made through and approved by the Missouri veterans' commission based on the requirements established by the commission;

(f) For payment of Missouri national guard and Missouri veterans' commission expenses associated with providing medals, medallions and certificates in recognition of service in the armed forces of the United States during World War II and the Korean Conflict pursuant to sections 42.170 to 42.206, RSMo. Any funds remaining from the medals, medallions and certificates shall not be transferred to any other fund and shall only be utilized for the awarding of future medals, medallions, and certificates in recognition of service in the armed forces; and

(g) Fund transfers totaling ten million dollars to any municipality with a population greater than three hundred fifty thousand inhabitants and located in part in a county with a population greater than six hundred thousand inhabitants and with a charter form of government, for the sole purpose of the construction, restoration, renovation and maintenance of a memorial or museum or both dedicated to World War I.

Any interest which accrues to the fund shall remain in the fund and shall be used in the same manner as moneys which are transferred to the fund pursuant to this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the veterans' commission capital improvement trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund;

(3) The remaining net proceeds in the gaming commission fund for fiscal year 1999 and each fiscal year thereafter shall be distributed as follows:

(a) The first four and one-half million dollar portion shall be transferred to the Missouri college guarantee fund, established pursuant to the provisions of sections 173.810 to 173.830, RSMo, and additional moneys as annually appropriated by the general assembly shall be appropriated to such fund;

(b) The second three million dollar portion shall be transferred to the veterans' commission capital improvement trust fund;

(c) The third three million dollar portion shall be transferred to the Missouri national guard trust fund created in section 41.214, RSMo;

(d) Subject to appropriations, one hundred percent of remaining net proceeds in the gaming commission fund except as provided in paragraph (l) of this subdivision, and after the appropriations made pursuant to the provisions of paragraphs (a), (b), and (c) of this subdivision, shall be transferred to the "Early Childhood Development, Education and Care Fund" which is hereby created to give parents meaningful choices and assistance in choosing the child-care and education arrangements that are appropriate for their family. All interest received on the fund shall be credited to the fund. Notwithstanding the provisions of section 33.080, RSMo, moneys in the fund at the end of any biennium shall not be transferred to the credit of the general

revenue fund. Any moneys deposited in such fund shall be used to support programs that prepare children prior to the age in which they are eligible to enroll in kindergarten, pursuant to section 160.053, RSMo, to enter school ready to learn. All moneys deposited in the early childhood development, education and care fund shall be annually appropriated for voluntary, early childhood development, education and care programs serving children in every region of the state not yet enrolled in kindergarten;

(e) No less than sixty percent of moneys deposited in the early childhood development, education and care fund shall be appropriated as provided in this paragraph to the department of elementary and secondary education and to the department of social services to provide early childhood development, education and care programs through competitive grants to, or contracts with, governmental or private agencies. Eighty percent of such moneys pursuant to the provisions of this paragraph and additional moneys as appropriated by the general assembly shall be appropriated to the department of elementary and secondary education and twenty percent of such moneys pursuant to the provisions of this paragraph shall be appropriated to the department of social services. The departments shall provide public notice and information about the grant process to potential applicants.

a. Grants or contracts may be provided for:

(i) Start-up funds for necessary materials, supplies, equipment and facilities; and

(ii) Ongoing costs associated with the implementation of a sliding parental fee schedule based on income;

b. Grant and contract applications shall, at a minimum, include:

(i) A funding plan which demonstrates funding from a variety of sources including parental fees;

(ii) A child development, education and care plan that is appropriate to meet the needs of children;

(iii) The identity of any partner agencies or contractual service providers;

(iv) Documentation of community input into program development;

(v) Demonstration of financial and programmatic accountability on an annual basis;

(vi) Commitment to state licensure within one year of the initial grant, if funding comes from the appropriation to the department of elementary and secondary education and commitment to compliance with the requirements of the department of social services, if funding comes from the department of social services; and

(vii) With respect to applications by public schools, the establishment of a parent advisory committee within each public school program;

c. In awarding grants and contracts pursuant to this paragraph, the departments may give preference to programs which:

(i) Are new or expanding programs which increase capacity;

(ii) Target geographic areas of high need, namely where the ratio of program slots to children under the age of six in the area is less than the same ratio statewide;

(iii) Are programs designed for special needs children;

(iv) Are programs that offer services during nontraditional hours and weekends; or

(v) Are programs that serve a high concentration of low-income families;

d. Beginning on August 28, 1998, the department of elementary and secondary education and the department of social services shall initiate and conduct a four-year study to evaluate the impact of early childhood development, education and care in this state. The study shall consist of an evaluation of children eligible for moneys pursuant to this paragraph, including an evaluation of the early childhood development, education and care of those children participating in such program and those not participating in the program over a four-year period. At the conclusion of the study, the department of elementary and secondary education and the department of social services shall, within ninety days of conclusion of the study, submit a report to the general assembly and the governor, with an analysis of the study required pursuant to this

subparagraph, all data collected, findings, and other information relevant to early childhood development, education and care;

(f) No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide early childhood development, education and care programs through child development, education and care certificates to families whose income does not exceed one hundred eighty-five percent of the federal poverty level in the manner pursuant to 42 U.S.C. 9858c(c)(2)(A) and 42 U.S.C. 9858n(2) for the purpose of funding early childhood development, education and care programs as approved by the department of social services. At a minimum, the certificate shall be of a value per child which is commensurate with the per child payment under item (ii) of subparagraph a. of paragraph (e) of this subdivision pertaining to the grants or contracts. On February first of each year the department shall certify the total amount of child development, education and care certificates applied for and the unused balance of the funds shall be released to be used for supplementing the competitive grants and contracts program authorized pursuant to paragraph (e) of this subdivision;

(g) No less than ten percent of moneys deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to increase reimbursements to child-care facilities for low-income children that are accredited by a recognized, early childhood accrediting organization;

(h) No less than ten percent of the funds deposited in the early childhood development, education and care fund shall be appropriated to the department of social services to provide assistance to eligible parents whose family income does not exceed one hundred eighty-five percent of the federal poverty level who wish to care for their children under three years of age in the home, to enable such parent to take advantage of early childhood development, education and care programs for such parent's child or children. At a minimum, the certificate shall be of a value per child which is commensurate with the per child payment under item (ii) of subparagraph a. of paragraph (e) of this subdivision pertaining to the grants or contracts. The department of social services shall provide assistance to these parents in the effective use of early childhood development, education and care tools and methods;

(i) In setting the value of parental certificates under paragraph (f) of this subdivision and payments under paragraph (h) of this subdivision, the department of social services may increase the value based on the following:

a. The adult caretaker of the children successfully participates in the parents as teachers program pursuant to the provisions of sections 178.691 to 178.699, RSMo, a training program provided by the department on early childhood development, education and care, the home-based Head Start program as defined in 42 U.S.C. 9832 or a similar program approved by the department;

b. The adult caretaker consents to and clears a child abuse or neglect screening pursuant to subdivision (1) of subsection 2 of section 210.152, RSMo; and

c. The degree of economic need of the family;

(j) The department of elementary and secondary education and the department of social services each shall by rule promulgated pursuant to chapter 536, RSMo, establish guidelines for the implementation of the early childhood development, education and care programs as provided in paragraphs (e) through (i) of this subdivision;

(k) Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in paragraph (j) of this subdivision shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however, nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted or promulgated prior to August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and

if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to August 28, 1998;

(l) When the remaining net proceeds, as such term is used pursuant to paragraph (d) of this subdivision, in the gaming commission fund annually exceeds twenty-eight million dollars: one-half million dollars of such proceeds shall be transferred annually, subject to appropriation, to the Missouri college guarantee fund, established pursuant to the provisions of section 173.830, RSMo; three million dollars of such proceeds shall be transferred annually, subject to appropriation, to the veterans' commission capital improvement trust fund; and one million dollars of such proceeds shall be transferred annually, subject to appropriation, to the Missouri national guard trust fund created in section 41.214, RSMo.

2. Upon request by the veterans' commission, the general assembly may appropriate moneys from the veterans' commission capital improvements trust fund to the Missouri national guard trust fund to support the activities described in section 41.958, RSMo.

578.510. MISUSE OF MILITARY MEDALS, PENALTY — MISREPRESENTATION OF AWARDING OF MILITARY MEDALS, PENALTY — FRAUDULENT USE OF THE TITLE OF VETERAN, PENALTY. — 1. This section shall be known and may be cited as the "Stolen Valor Act of 2007".

2. Any person who, with the intent to misrepresent himself or herself as a veteran or medal recipient, knowingly wears, purchases, attempts to purchase, solicits for purchase, mails, ships, imports, exports, produces blank certificates of receipt for, manufactures, sells, attempts to sell, advertises for sale, trades, barters, or exchanges for anything of value any decoration or medal authorized under chapter 41, RSMo, or by the Congress for the armed forces of the United States, or any of the service medals or badges awarded to the members of such forces, or the ribbon, button, or rosette of any such badge, decoration, or medal, or any colorable imitation thereof, except when authorized under regulations promulgated under law, is guilty of a class A misdemeanor. Any second or subsequent violation of this subsection is a class D felony.

3. Any person who misrepresents himself or herself, verbally or in writing, to have been awarded any decoration or medal authorized under chapter 41, RSMo, or by Congress for the armed forces of the United States, any of the service medals or badges awarded to the members of such forces, the ribbon, button, or rosette of any such badge, decoration, or medal, or any colorable imitation of such item is guilty of a class A misdemeanor. Any second or subsequent violation of this subsection is a class D felony.

4. Any person who fraudulently uses the title of "veteran", as defined by the United States Department of Veterans' Affairs or its successor agency, in order to obtain personal benefit, monetary or otherwise, and such person does not have verifiable proof of his or her status as a veteran is guilty of a class A misdemeanor. Any second or subsequent violation of this subsection is a class D felony.

5. If a decoration or medal involved in an offense described in subsections 2 to 4 of this section is a distinguished-service cross awarded under Section 3742 of Title 10 of the United States Code, a Navy Cross awarded under Section 6242 of Title 10 of the United States Code, an Air Force Cross awarded under Section 8742 of Section 10 of the United States Code, a Silver Star awarded under Section 3742, 6244, or 8746 of Title 10 of the United States Code, a Purple Heart awarded under Section 1129 of Title 10 of the United States Code, or any replacement or duplicate medal for such medal as authorized by law, in lieu of the penalty provided in subsection 2, 3, or 4 of this section, the offender is guilty of a class D felony.

6. If a decoration or medal involved in an offense described in subsections 2 to 4 of this section is the Medal of Honor awarded under Section 1560 of Title 38 of the United States Code, the offender is guilty of a class C felony.

Approved June 30, 2007

HB 678 [HCS HB 678]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows certain school districts in declared federal disaster areas after the January 2007 ice storms to not make up lost time and allows other schools to make up only a certain number of the missed days

AN ACT to amend chapter 171, RSMo, by adding thereto one new section relating to school attendance in inclement weather, with an emergency clause.

SECTION
A. Enacting clause.
171.035. Make-up days, exemption from requirement for schools in a declared federal disaster area, limitation.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Chapter 171, RSMo, is amended by adding thereto one new section, to be known as section 171.035, to read as follows:

171.035. MAKE-UP DAYS, EXEMPTION FROM REQUIREMENT FOR SCHOOLS IN A DECLARED FEDERAL DISASTER AREA, LIMITATION. — Except a school district with an assessed valuation of three hundred million dollars or more and with territory in a county of the second classification, no school district with any territory contained in a county declared to be a federal disaster area on January 16, 2007, that cancelled classes or dismissed classes early for weather-related reasons for any of its schools for any days from January fifteenth to January 22, 2007, shall be required to make up the days or hours lost during such time. School districts in counties not included in the federal disaster area that have missed eight or more days due to inclement weather during the 2006-2007 school year shall not be required to make up the days or hours for six of those days. The requirement for scheduling two-thirds of the missed days into the next year's calendar under subsection 1 of section 171.033 shall be waived for the 2007-2008 school year.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to clarify potential school scheduling and funding problems, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 13, 2007

HB 680 [HB 680]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Designates Big Bluestem as the official state grass

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

SECTION
A. Enacting clause.
10.150. Big bluestem, official state grass.

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 10.150, to read as follows:

10.150. BIG BLUESTEM, OFFICIAL STATE GRASS. — The Missouri native grass (Andropogon gerardii) known as "Big Bluestem" is selected for, and shall be known as, the official grass of the state of Missouri.

Approved June 11, 2007

HB 684 [SCS HB 684]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Governor to convey state property located in the City of St. Louis and the counties of Greene, Jackson, Livingston, Newton, St. Francois, St. Louis, and Texas

AN ACT to authorize the conveyance of certain state properties, with an emergency clause.

SECTION
1. Conveyance authorized for the Midtown State Office Building in St. Louis.
2. Conveyance authorized for property located in Park Hills, St. Francois County.
3. Conveyance authorized for property located in Cabool, Texas County.
4. Conveyance authorized for property located in Joplin.
5. Conveyance authorized for property located in Springfield.
6. Conveyance to City of Chillicothe authorized for property located in Chillicothe.
7. Conveyance authorized for property known as Bellefontaine in St. Louis.
8. Conveyance authorized for property located in Kansas City.
A. Emergency clause.

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

SECTION 1. CONVEYANCE AUTHORIZED FOR THE MIDTOWN STATE OFFICE BUILDING IN ST. LOUIS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property known as Midtown State Office Building, St. Louis, Missouri, more particularly described as follows:

"PARCEL No. 1" IN CITY BLOCK 1059
ST. LOUIS, MISSOURI

A parcel of ground in Block 1059, of the City of St. Louis, Missouri, including all of Lots A, B & C, and part of Lots 8, 7, 6, 5 & 4; said parcel being more particularly described as follows: COMMENCING at the point of intersection of the south line of Olive Street, 60 feet wide, with the east line of Grand Boulevard, 80 feet wide; Thence South 60 degrees 30 minutes West 160.00 feet, along the south line of said Olive Street, to the west line of said Lot C, and being the point of BEGINNING of the parcel herein described; Thence South 60 degrees 30 minutes East 159.84 feet, along the south line of said Olive Street, to an angle point therein; Thence South 60 degrees 38 minutes 07 seconds East 221.23 feet, along the south line of said Olive Street, to a line distant 18.00 feet east of and parallel with the west line of said Lot 4; Thence South 29 degrees 21 minutes 53 seconds West 88.25 feet, along said line parallel with the west line of said Lot 4, to the centerline of the former Alley, 10 feet wide, in said Block, Vacated by Ordinance 64807; Thence North 68 degrees 12 minutes 09 seconds West 86.98 feet, along the centerline of said former Alley; Thence South 16 degrees 14 minutes 50 seconds West 57.10 feet, to the north line of Lindell Boulevard, 100 feet wide; Thence North 75 degrees 00 minutes 25 seconds West 56.21 feet, along the north line of said Lindell Boulevard, to an angle point therein; Thence North 76 degrees 17 minutes 40 seconds West 233.92 feet, along the north line of said Lindell Boulevard, to a point distant South 76 degrees 17 minutes 40 seconds East 186.17 feet, from its intersection with the east line of said Grand Boulevard; Thence North 14 degrees 59 minutes 20 seconds East 72.53 feet, to the south line of the former Alley, 15 feet wide, in said Block, Vacated by Ordinance 58135; Thence North 5 degrees 00 minutes 21 seconds West 18.20 feet, to the point of intersection of the north line the last said Vacated Alley, with the west line of the aforesaid Lot C; Thence North 29 degrees 25 minutes 40 seconds East 147.50 feet, along the west line of said Lot, C to the south line of said Olive Street and the point of beginning and containing 65,683 Square Feet or 1.5079 Acres.

"PARCEL No. 2" IN CITY BLOCK 1060
ST. LOUIS, MISSOURI

A parcel of ground in Block 1060, of the City of St. Louis, Missouri, being all of Lots 1 through 7 inclusive; said parcel being more particularly described as follows: BEGINNING at the point of Intersection of the north line of Olive Street, 60 feet wide, with the west line of Theresa Avenue, 60 feet wide; Thence North 60 degrees 38 minutes 07 seconds West 396.39 feet, along the north line of said Olive Street, to the west line of said Lot 7; Thence North 29 degrees 19 minutes East 156.76 feet, along the west line of said Lot 7, to the south line of an Alley, 15 feet wide, in said Block; Thence South 75 degrees 00 minutes 54 seconds East 346.18 feet, along the south line of said Alley, to the west line of said Theresa Avenue; Thence South 15 degrees 13 minutes 06 seconds West 250.33 feet, along the west line of said Theresa Avenue; to the north line of said Olive Street and being the point of beginning and containing 74,400 Square Feet, or 1.7080 Acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 2. CONVEYANCE AUTHORIZED FOR property located in Park Hills, St. Francois County. — 1. The governor is hereby authorized and empowered to sell,

transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Park Hills, St. Francois County, more particularly described as follows:

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 shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 3. CONVEYANCE AUTHORIZED FOR PROPERTY LOCATED IN CABOOL, TEXAS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever Quitclaim all interest of the state of Missouri in real property located in Cabool, Texas County, more particularly described as follows:

All of that part of a Tract of land located in the Southeast Quarter of the Southeast Quarter of Section 12, Township 28 North, Range 11 West, Texas County, Missouri, more particularly described as follows: COMMENCING at an existing 5/8" Iron Pin at the Southwest corner of the Southeast Quarter of the Southeast Quarter of Section 12, Township 28 North, Range 11 West, Texas County, Missouri; thence North 00 Degrees 24 Minutes 28 Seconds East along the West line of said Quarter Quarter, a distance of 1325.38 feet to the Northwest corner thereof; thence South 88 Degrees 48 minutes 49 Seconds East along the North line of said Quarter Quarter, a distance of 44.92 feet to a point; thence South 00 Degrees 24 minutes 19 seconds West, a distance of 636.20 feet to a point; thence South 88 Degrees 52 minutes 30 Seconds East, a distance of 5.05 feet; thence continuing South 88 Degrees 52 minutes 30 Seconds East, a distance of 734.24 feet to the POINT OF BEGINNING; thence North 11 Degrees 00 minutes 28 Seconds East, a distance of 395.81 feet to a point; thence North 11 Degrees 00 Minutes 28 Seconds East, a distance of 395.81 feet to a point; thence North 50 Degrees 01 Minutes 04 Seconds East, a distance of 239.93 feet to a point of intersection with the centerline of the old Cabool-Willow Springs Road; thence South 39 Degrees 39 Minutes 35 Seconds East along said centerline, a distance of 107.92 feet to a point; thence departing said centerline South 61 Degrees 28 minutes 55 Seconds West, a distance of 215.25 feet to a point; thence South 04 Degrees 00 Minutes 19 Seconds East, a distance of 329.20 feet to a point; thence South 21 Degrees 32 Minutes 32 Seconds East, a distance of 34.27 feet to a point; thence North 88 Degrees 52 minutes 30 Seconds West, a distance of 174.78 feet to the POINT OF BEGINNING and containing 62,476 square feet or 1.434 acres, more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 4. CONVEYANCE AUTHORIZED FOR PROPERTY LOCATED IN JOPLIN. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Joplin, Newton County, more particularly described as follows:

Tract "A" Description:

Commencing at a found monument at the Northwest corner of the Northeast Quarter of Section 21, Township 27 North, Range 33 West in the City of Joplin, Newton County, Missouri; Thence S01°42'35"W along the West line of said Quarter Section a distance of 50.01 feet to the South Line of 32nd Street; Thence S89°36'28"E along said line parallel with the North Line of said Section 21, a distance of 534.01 feet to the Northwest Corner of the Additional 100 foot wide Missouri National Guard Armory Tract and the point of beginning. Thence S89°36'28"E along the South Line of 32nd Street 50.00 Feet; Thence on a deed bearing of S00°41'30"W 500.00 feet; Thence N89°36'28"W 50.00 Feet to the Southwest Corner of the additional 100 foot wide Missouri National Guard Armory tract; Thence along the West line of Said tract on a Deed bearing of N00°41'30"E 500.00 feet to the point of beginning. Excepting any portion lying within any additional road right-of-way for 32nd Street on the North Side thereof. Containing 0.57 acre (24,979 square feet) more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 5. CONVEYANCE AUTHORIZED FOR PROPERTY LOCATED IN SPRINGFIELD. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Springfield, Greene County, more particularly described as follows:

Beginning on the South side of St. Louis Street at a point fifty (50) feet west of the Northwest corner of a lot known at one time as the W. J. McDaniel Lot, which point is now the Northwest corner of the Simmons Lot (formerly the A. J. Clements lot), thence West along the South side of St. Louis Street fifty (50) feet to Bryan's Northeast corner, thence South to South alley now McDaniel Street, thence East fifty (50) feet to the Southwest corner of the lot formerly belonging to said Clements, thence North to the beginning, all in the City of Springfield, Missouri. Also described as Beginning 50 feet West of the Northwest corner of Lot 1, Kimbroughs Addition, West 50 feet, thence South 222 feet to McDaniel Street, East 50 feet, North to the 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 time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 6. CONVEYANCE TO CITY OF CHILLICOTHE AUTHORIZED FOR PROPERTY LOCATED IN CHILLICOTHE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim to the City of Chillicothe all interest of the state of Missouri in real property located in Chillicothe, Livingston County, more particularly described as follows:

DESCRIPTION OF TRACT #1

A tract of land being part of the East 770 feet of Lot 1 of Weston Heights Addition to Chillicothe and part of Block 3 of Bruce's Subdivision to the City of Chillicothe, all being in the Southeast Quarter of Section 35, Township 58 North,

Range 24 West of the fifth principal meridian, Livingston County, Missouri, being more particularly described as follows:
Commencing at an iron pin marking the Southeast corner of said Section 35; thence North 00 degrees 01 minutes 02 seconds East, a distance of 29.81 feet to the North line of Third Street; thence along said North line, South 88 degrees 35 minutes 04 seconds West, a distance of 659.70 feet to an iron pin and the POINT OF BEGINNING; thence continuing South 88 degrees 35 minutes 04 Seconds West, a distance of 769.71 feet to an iron pin on the East line of Woodrow Avenue; thence along said East line, North 00 degrees 06 minutes 17 seconds West, a distance of 671.34 feet to an iron pin marking the Southwest corner of the Penniston School tract; thence along the South line of said School tract, North 88 degrees 48 minutes 28 seconds East, a distance of 384.94 feet to an iron pin marking the Southeast corner of said School Tract; thence North 00 degrees 06 minutes 28 seconds West, a distance of 339.73 feet to an iron pin on the South right of way of Clay Street marking the Northeast corner of said School Tract; thence along the South line of Clay Street North 88 degrees 36 minutes 41 seconds East, a distance of 385.06 feet to an iron pin; thence leaving said right of way along the West line of John Grave's Western Addition to Chillicothe, South 00 degrees 05 minutes 15 seconds East, a distance of 858.71 feet to an iron pin; thence North 89 degrees 58 minutes 03 seconds East, a distance of 180.28 feet to an iron pin on the East line of Lot 5, Block 3 of Bruces' Subdivision of Blocks 17 and 18 of Graves Western Addition to the City of Chillicothe; thence South 00 degrees 08 minutes 25 seconds West, a distance of 146.35 feet to an iron pin on the North line of Third Street and the Southeast Corner of said Lot 5; thence South 88 degrees 35 minutes 04 seconds West, a distance of 179.74 feet to the POINT OF BEGINNING, containing 15.46 acres, more or less.
DESCRIPTION OF TRACT #2
A tract of land lying in the Northeast Quarter of Section 2, Township 57 North, Range 24 West of the fifth principal meridian, City of Chillicothe, Livingston County, Missouri, being more particularly described as follows:
Commencing at an iron pin marking the Northeast corner of said Section 2; thence along the East line of said Section 2, South 00 degrees 00 minutes 58 seconds West, a distance of 30.21 feet to an iron pin on the South right of way line of Third Street and the POINT OF BEGINNING; thence continuing South 00 degrees 00 minutes 58 seconds West, a distance of 1591.66 feet to an iron pin on the Northerly right of way of the former Norfolk Southern Railroad; thence along said right of way, along the arc of a curve to the right, having a radius of 1382.69 feet for a distance of 242.48 feet (chord bearing N89°56'35"W–242.17') to an iron pin; thence North 84 degrees 55 minutes 09 seconds West, a distance of 1021.59 feet to an iron pin on the Quarter–Quarter Section line; thence along said Quarter Quarter line, North 00 degrees 01 minutes 27 seconds West, a distance of 164.31 feet to an iron pin; thence North 89 degrees 58 minutes 33 seconds East, a distance of 20.00 feet to an iron pin on the East line of Woodrow Street; thence along said East line, North 00 degrees 01 minutes 27 seconds West, a distance of 1305.97 feet to an iron pin on the South right of way line of Third Street; thence North 88 degrees 35 minutes 04 seconds East, a distance of 1241.20 feet to the POINT OF BEGINNING, containing 43.96 acres, more or less.
DESCRIPTION OF TRACT #3
A tract of land lying in the Northeast Quarter of Section 2, Township 57 North, Range 24 West of the fifth principal meridian, City of Chillicothe, Livingston County, Missouri, being more particularly described as follows:

Commencing at an iron pin marking the Northeast corner of said Section 2; thence along the East line of said Section 2, South 00 degrees 00 minutes 58 seconds West, a distance of 1621.87 feet to an iron pin on the Northerly right of way of the former Norfolk Southern Right of way and the POINT OF BEGINNING; thence continuing South 00 degrees 00 minutes 58 seconds West, a distance of 50.18 feet to an iron pin at the centerline of said Norfolk Southern right of way; thence along said centerline, along the arc of a curve to the right, having a radius of 1432.69 feet for a distance 246.89 feet (chord bearing N89°51'21"W–246.58') to an iron pin; thence North 84 degrees 55 minutes 09 seconds West, a distance 1017.13 feet to an iron pin on the Quarter-Quarter Section line; thence North 00 degrees 01 minutes 27 seconds West, a distance of 50.20 feet to an iron pin on said Northerly right of way; thence along said right of way, South 84 degrees 55 minutes 09 seconds East, a distance of 1021.59 feet to an iron pin; thence along a curve to the left, having a radius of 1382.69 feet for a distance of 242.48 feet (chord bearing S89°56'35"E–242.17') to the POINT OF BEGINNING, containing 1.45 acres, more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 7. CONVEYANCE AUTHORIZED FOR PROPERTY KNOWN AS BELLEFONTAINE IN ST. LOUIS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property known as Bellefontaine, St. Louis, Missouri, more particularly described as follows:

A tract of land in U.S. survey 390, 2713 and in fractional section 33 and 34, all in township 47 North, range 7 East, St. Louis County, Missouri. Commencing at the point of intersection of the West line of Bellefontaine Road 60 feet wide, with the South line of said township line. Thence along the West line of Bellefontaine Road 60 feet wide the following courses and distances, North 05 degrees 29 minutes 31 seconds East for 814.71 feet to a point and North 05 degrees 12 minutes 31 seconds East for 252.21 feet to the point of beginning; Thence along a curve to the left with a radius of 1164.41 feet an arc length of 420.35 feet (chord South 88 degrees 12 minutes 01 seconds West for 418.07 feet) to a point; Thence South 73 degrees 19 minutes 59 seconds West for 292.22 feet to a point; Thence along a curve to the right with a radius of 513.59 feet an arc length of 560.86 feet (chord North 71 degrees 36 minutes 09 seconds West for 533.40 feet) to a point; Thence along a curve to the right with a radius of 403.58 feet an arc length of 599.22 feet (chord North 06 degrees 15 minutes 30 seconds West for 515.50 feet) to a point; Thence North 26 degrees 42 minutes 21 seconds East for 168.28 feet to a point; Thence North 30 degrees 48 minutes 42 seconds West for 385.51 feet to a point; Thence North 59 degrees 11 minutes 18 seconds East for 100.00 feet to a point; Thence North 30 degrees 48 minutes 42 seconds West for 266.61 feet to a point on the South line of interstate highway I-270; Thence along said highway I-270 along a curve to the right with a radius of 4583.75 an arc length of 809.95 feet (chord South 83 degrees 20 minutes 27 seconds East for 808.89 feet) to a point; Thence South 78 degrees 16 minutes 44 seconds East for 53.66 feet to a point; Thence South 69 degrees 44 minutes 53 seconds East for 680.24 feet to a point on the South line of said highway I-270 and the West line of Bellefontaine Road; Thence along said West line of Bellefontaine Road, South 05 degrees 12 minutes 31 seconds West for 180.00 feet

to a point; Thence South 84 degrees 47 minutes 29 seconds East for 30.00 feet to a point; Thence South 05 degrees 12 minutes 31 seconds West for 826.79 feet to the point of beginning and containing 38.39 acres more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

4. The State of Missouri reserves a reversionary interest in said property. If the property is not used to provide mental retardation and developmental disabilities services, the property shall revert to the State of Missouri.

SECTION 8. CONVEYANCE AUTHORIZED FOR PROPERTY LOCATED IN KANSAS CITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property known as a portion of land, being a part of Lot 2 in Gateway 2000 – Missouri, a subdivision of land in Kansas City, Jackson County, Missouri, being more particularly described as follows:

Beginning at the Northwest corner of said Lot 2, being the beginning a curve, concave to the south, having a radius of 474.62'; Thence Southeasterly 11.25 feet along said curve and the North line of said Lot 2, having a chord bearing of South 66°52'34" East, a chord distance of 11.25 feet, to a plus cut; Thence South 01°56'07" West 472.36 feet to the South line of said Lot 2, to a one-half inch reinforcing bar with cap, LS-533; Thence North 88°03'57" West 10.48 feet along the South line of said Lot 2 to the Southwest corner of said Lot 2; Thence North 01°56'03" East 476.42 feet along the West line of said Lot 2 to the Northwest corner of said Lot 2, and the point of beginning, containing 4,975 square feet or 0.1142 acres.

Subject to all easements and restriction of record.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION A. EMERGENCY CLAUSE. — Because immediate action is necessary to continue economic development efforts, sections 1 to 8 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and sections 1 to 8 of this act shall be in full force and effect upon its passage and approval.

Approved June 13, 2007

HB 686 [HB 686]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Expands the rulemaking authority of the Missouri Board of Nursing Home Administrators to include the issuance of a separate license to an administrator of an assisted living facility

AN ACT to repeal section 344.070, RSMo, and to enact in lieu thereof one new section relating to nursing home administrators.

SECTION
A. Enacting clause.
344.070. Board officers, how selected — duties and powers of board — rules and regulations, procedure.

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

SECTION A. ENACTING CLAUSE. — Section 344.070, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 344.070, to read as follows:

344.070. BOARD OFFICERS, HOW SELECTED — DUTIES AND POWERS OF BOARD — RULES AND REGULATIONS, PROCEDURE. — 1. The board shall annually elect one of its members as president, another as vice president, and another as secretary. It shall adopt an official seal. It shall file and preserve all written applications, petitions, complaints, charges or requests made or presented to it. It shall cause to be kept accurate records and minutes of its proceedings, and shall maintain a register of the names and addresses of all persons holding licenses as nursing home administrators. A copy of any entry in the register, or of any records or minutes of the board, certified by the president or secretary of the board under its seal, shall be received in evidence, to all intents and purposes as the original. The board may employ such part- or full-time clerical assistance, purchase such equipment and supplies, employ legal counsel, employ a part- or full-time investigator, and incur travel and other expense, within the limits of its appropriations.

2. The board shall adopt, amend and repeal rules and regulations necessary to carry out the provisions of sections **[**344.030**]** **344.020** to 344.100. Any rule or regulation under the authority of sections **[**344.030**]** **344.020** to 344.100 shall be promulgated in accordance with chapter 536, RSMo. The committee on administrative rules may file a complaint in accordance with the provisions of chapter 536, RSMo, before the commission contesting the validity of any rule purportedly promulgated under the authority of sections **[**344.030**]** **344.020** to 344.100. On filing any complaint in accordance with this section, the administrative hearing commission shall immediately suspend that portion of the rule which is challenged until the commission has determined the matter. The commission shall hold a hearing within ten days of the filing to determine the matter. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

3. The board shall examine, license, and renew the license of duly qualified applicants, and shall conduct hearings affording due process of law, upon charges calling for discipline of a licensee. The board shall refer to the appropriate prosecuting attorney information regarding any persons violating the provisions of sections 344.010 to 344.100 and may incur necessary expenses therefor.

Approved July 13, 2007

HB 732 [HB 732]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Adds emergency personnel killed while performing their duties to the list of individuals who are eligible for memorial highway or bridge designations

AN ACT to repeal section 227.299, RSMo, and to enact in lieu thereof one new section relating to memorial highway designations.

SECTION
A. Enacting clause.
227.299. Memorial bridge or highway designations, procedure — notice requirements — signs to be erected — multiple designations prohibited — time period of designation.

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

SECTION A. ENACTING CLAUSE. — Section 227.299, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 227.299, to read as follows:

227.299. MEMORIAL BRIDGE OR HIGHWAY DESIGNATIONS, PROCEDURE — NOTICE REQUIREMENTS — SIGNS TO BE ERECTED — MULTIPLE DESIGNATIONS PROHIBITED — TIME PERIOD OF DESIGNATION. — 1. Except as provided in subsection 7 of this section, an organization or person that seeks a bridge or highway designation on the state highway system to honor an event, place, organization, or person who has been deceased for more than two years shall petition the department of transportation by submitting the following:

(1) An application in a form prescribed by the director, describing the bridge or segment of highway for which designation is sought and the proposed name of the bridge or relevant portion of highway. The application shall include the name of at least one current member of the general assembly who will sponsor the bridge or highway designation. The application may contain written testimony for support of the bridge or highway designation;

(2) A list of at least one hundred signatures of individuals who support the naming of the bridge or highway; and

(3) A fee to be determined by the commission to cover the costs of constructing and maintaining the proposed signs. The fee shall not exceed the cost of constructing and maintaining each sign.

2. All moneys received by the department of transportation for the construction and maintenance of bridge or highway signs on the state highway system shall be deposited in the state treasury to the credit of the state road fund.

3. The documents and fees required under this section shall be submitted to the department of transportation no later than November first prior to the next regular session of the general assembly to be approved or denied by the joint committee on transportation oversight during such legislative session.

4. The department of transportation shall give notice of any proposed bridge or highway designation on the state highway system in a manner reasonably calculated to advise the public of such proposal. Reasonable notice shall include posting the proposal for the designation on the department's official public web site, and making available copies of the sign designation application to any representative of the news media or public upon request and posting the application on a bulletin board or other prominent public place which is easily accessible to the public and clearly designated for that purpose at the principal office.

5. If the memorial highway designation requested by the organization is not approved by the joint committee on transportation oversight, ninety-seven percent of the application fee shall be refunded to the requesting organization.

6. Two highway signs shall be erected for each bridge and highway designation on the state highway system processed under this section. When a named section of a highway crosses two or more county lines, consideration shall be given by the department of transportation to allow additional signage at the county lines or major intersections.

7. Highway or bridge designations on the state highway system honoring fallen law enforcement officers, members of the armed forces killed in the line of duty, **emergency**

personnel killed while performing duties relating to their employment, or state employees killed while serving the state shall not be subject to the provisions of this section.

8. No bridge or portion of a highway on the state highway system may be named or designated after more than one event, place, organization, or person. Each event, place, organization, or person shall only be eligible for one bridge or highway designation.

9. Any highway signs erected for any bridge or highway designation on the state highway system under the provisions of this section shall be erected and maintained for a twenty-year period. After such period, the signs shall be subject to removal by the department of transportation and the bridge or highway may be designated to honor events, places, organizations, or persons other than the current designee. An existing highway or bridge designation processed under the provisions of this section may be retained for additional twenty-year increments if, at least one year before the designation's expiration, an application to the department of transportation is made to retain the designation along with the required documents and all applicable fees required under this section.

10. The provisions of this section shall apply to bridge or highway designations sought after August 28, 2006.

Approved July 13, 2007

HB 740 [SS SCS HB 740]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Governor to convey an easement over state property located in Johnson County to the City of Warrensburg and Northwest Missouri State University to convey state property in Nodaway County

AN ACT to authorize the conveyance of state property.

SECTION

1. Conveyance to the City of Warrensburg authorized for property located in Johnson County.
2. Conveyance authorized for property located in Nodaway County.

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

SECTION 1. CONVEYANCE TO THE CITY OF WARRENSBURG AUTHORIZED FOR PROPERTY LOCATED IN JOHNSON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey an easement over property owned by the state in Johnson County to the City of Warrensburg. The easement to be conveyed is more particularly described as follows:

THE WEST 30 FEET OF LOT 4, JOHNSON COUNTY INDUSTRIAL PARK, AS SHOWN IN PLAT BOOK 11, PAGE 27, RECORDS OF JOHNSON COUNTY, MO.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. CONVEYANCE AUTHORIZED FOR PROPERTY LOCATED IN NODAWAY COUNTY — 1. The board of regents of Northwest Missouri State University is hereby

authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in Nodaway County. The property to be conveyed is more particularly described as follows:

Commencing at the Northwest Corner Section 21, Township 64 North, Range 35 West, Nodaway County, Missouri; thence along Section line South 88 degrees 59 minutes 56 seconds East 1498.03 feet; thence South 01 degrees 26 minutes 32 seconds West 70.76 feet to the southerly right-of-way of Highway 136 and the Point of Beginning; thence along said right-of-way South 83 degrees 01 minutes 33 seconds East 161.21 feet; thence continuing along said right-of-way South 88 degrees 58 minutes 33 seconds East 203.85 feet to the easterly right-of-way of the former Norfolk and Western Railroad right-of-way; thence along said right-of-way South 28 degrees 44 minutes 21 seconds East 257.08 feet; thence North 88 degrees 32 minutes 03 seconds West 493.95 feet; thence North 01 degrees 26 minutes 32 seconds East 235.23 feet to the point of beginning except that portion lying within the abandoned Railroad right of way, Nodaway County, Missouri.

2. Consideration for the conveyance shall be negotiated by the board of regents and the purchaser of the property.

3. The attorney general shall approve the form of the instrument of conveyance.

Approved June 13, 2007

HB 741 [SS HCS HB 741]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding tax increment financing, biodiesel incentives, regional economic development districts, and the Missouri Rice Certification Act

AN ACT to repeal sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 135.535, 142.031, RSMo, and sections 99.820 and 99.825 as truly agreed to and finally passed in senate substitute for senate committee substitute for house committee substitute for house bill no. 327, ninety-fourth general assembly, first regular session, and to enact in lieu thereof twenty-three new sections relating to programs administered by the department of economic development, with penalty provisions.

SECTION

A. Enacting clause.
30.750. Definitions.
30.753. Treasurer's authority to invest in linked deposits, limitations.
30.756. Lending institution receiving linked deposits, requirements and limitations — false statements as to use for loan, penalty — eligible student borrowers — eligibility, student renewal loans, repayment method — priority for reduced-rate loans.
30.758. Loan package acceptance or rejection — loan agreement requirements — linked deposit at reduced market interest rate, when.
30.760. Loans to be at fixed rate of interest set by rules — records of loans to be segregated — penalty for violations — state treasurer, powers and duties.
30.765. State and state treasurer not liable on loans — default on a loan not to affect deposit agreement with state.
99.820. Municipalities' powers and duties — commission appointment and powers — public disclosure requirements — officials' conflict of interest, prohibited.
99.825. Adoption of ordinance for redevelopment, public hearing required — objection procedure — hearing and notices not required, when — restrictions on certain projects.
99.1100. Joint committee on tax policy to conduct study.
135.535. Tax credit for relocating a business to a distressed community, approval by department of economic development, application — employees eligible to receive credit — credit for expenditures on equipment

— transfer of certificate of credit — maximum amount allowed, credit carried over — limitations — tax credit for existing business in a distressed community which hires new employees, conditions and types of businesses eligible.
135.562. Principal dwellings, tax credit for renovations for disability access.
142.031. Missouri qualified biodiesel producer fund created — eligibility for grants — rulemaking authority — expiration date — sale of facility, effect of.
251.600. Citation of law.
251.603. Definitions.
251.605. District may be established — board, members, how appointed.
251.610. Powers of the board.
251.615. Sales tax authorized, ballot language — deposit of tax revenue, use of moneys — abolishment of tax, effect of — annual report, contents — severability clause.
251.618. Incremental tax financing permitted, when — county assessor duties — tax rates, determination of.
251.621. Plan required, contents — findings required.
251.624. Termination of incremental tax financing, when, procedure.
251.627. County clerk to annually ascertain amount of value of taxable property in the district.
251.630. Issuance of bonds, purpose — refunding — interest exempt from state taxation.
265.525. Citation of law — definitions — council created, members, terms, meetings, powers and duties — department authority — fees, rulemaking authority — violations, penalty.
99.820. Municipalities' powers and duties — commission appointment and powers — public disclosure requirements — officials' conflict of interest, prohibited.
99.825. Adoption of ordinance for redevelopment, public hearing required — objection procedure — hearing and notices not required, when — restrictions on certain projects.

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

SECTION A. ENACTING CLAUSE. — Sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 135.535, 142.031, RSMo, and sections 99.820 and 99.825 as truly agreed to and finally passed in senate substitute for senate committee substitute for house committee substitute for house bill no. 327, ninety-fourth general assembly, first regular session, are repealed and twenty-three new sections enacted in lieu thereof, to be known as sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 99.820, 99.825, 99.1100, 135.535, 135.562, 142.031, 251.600, 251.603, 251.605, 251.610, 251.615, 251.618, 251.621, 251.624, 251.627, 251.630, and 265.525, to read as follows:

30.750. DEFINITIONS. — As used in sections 30.750 to 30.767, the following terms mean:

(1) "Eligible agribusiness", a person engaged in the processing or adding of value to agricultural products produced in Missouri;

(2) "Eligible beginning farmer",

(a) For any beginning farmer who seeks to participate in the linked deposit program alone, a farmer who:

a. Is a Missouri resident;

b. Wishes to borrow for a farm operation located in Missouri;

c. Is at least eighteen years old; and

d. In the preceding five years has not owned, either directly or indirectly, farm land greater than fifty percent of the average size farm in the county where the proposed farm operation is located or farm land with an appraised value greater than four hundred fifty thousand dollars.

A farmer who qualifies as an eligible farmer under this provision may utilize the proceeds of a linked deposit loan to purchase agricultural land, farm buildings, new and used farm equipment, livestock and working capital;

(b) For any beginning farmer who is participating in both the linked deposit program and the beginning farmer loan program administered by the Missouri agriculture and small business development authority, a farmer who:

a. Qualifies under the definition of a beginning farmer utilized for eligibility for federal tax-exempt financing, including the limitations on the use of loan proceeds; and

b. Meets all other requirements established by the Missouri agriculture and small business development authority;

(3) "Eligible facility borrower", a borrower qualified under section 30.860 to apply for a reduced-rate loan under sections 30.750 to 30.767;

(4) "Eligible farming operation", any person engaged in farming in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010, RSMo, that has all of the following characteristics:

(a) Is headquartered in this state;

(b) Maintains offices, operating facilities, or farming operations and transacts business in this state;

(c) Employs less than ten employees;

(d) Is organized for profit;

(e) Possesses not more than sixty percent equity, where "percent equity" is defined as total assets minus total liabilities divided by total assets, except that an otherwise eligible farming operation applying for a loan for the purpose of installing or improving a waste management practice in order to comply with environmental protection regulations shall be exempt from this eligibility requirement;

(5) "Eligible higher education institution", any approved public or private institution as defined in section 173.205, RSMo;

(6) "Eligible job enhancement business", a new, existing, or expanding firm operating in Missouri, or as a condition of accepting the linked deposit, will locate a facility or office in Missouri associated with said linked deposit, which employs ten or more employees in Missouri on a yearly average and which, as nearly as possible, is able to establish or retain at least one job in Missouri for each fifty thousand dollars received from a linked deposit loan;

(7) "Eligible lending institution", a financial institution that is eligible to make commercial or agricultural or student loans or discount or purchase such loans, is a public depository of state funds or obtains its funds through the issuance of obligations, either directly or through a related entity, eligible for the placement of state funds under the provisions of section 15, article IV, Constitution of Missouri, and agrees to participate in the linked deposit program;

(8) "Eligible livestock operation", any person engaged in production of livestock or poultry in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010, RSMo;

(9) **"Eligible locally owned business", any person, seeking to establish a new firm, partnership, cooperative company, or corporation that shall retain at least fifty-one percent ownership by residents in a county in which the business is headquartered, that consists of the following characteristics:**

(a) The county has a median population of twelve thousand five hundred or less; and

(b) The median income of residents in the county are equal to or less than the state median income; or

(c) The unemployment rate of the county is equal to or greater than the state's unemployment rate;

(10) "Eligible marketing enterprise", a business enterprise operating in this state which is in the process of marketing its goods, products or services within or outside of this state or overseas, which marketing is designed to increase manufacturing, transportation, mining, communications, or other enterprises in this state, which has proposed its marketing plan and strategy to the department of economic development and which plan and strategy has been approved by the department for purposes of eligibility pursuant to sections 30.750 to 30.767. Such business enterprise shall conform to the characteristics of paragraphs (a), (b) and (d) of subdivision (4) of this section and also employ less than twenty-five employees;

[(10)**]** **(11)** "Eligible multitenant development enterprise", a new enterprise that develops multitenant space for targeted industries as determined by the department of economic development and approved by the department for the purposes of eligibility pursuant to sections 30.750 to 30.767;

[(11)**]** **(12)** "Eligible residential property developer", an individual who purchases and develops a residential structure of either two or four units, if such residential property developer uses and agrees to continue to use, for at least the five years immediately following the date of issuance of the linked deposit loan, one of the units as his principal residence or if such person's principal residence is located within one-half mile from the developed structure and such person agrees to maintain the principal residence within one-half mile of the developed structure for at least the five years immediately following the date of issuance of the linked deposit loan;

[(12)**]** **(13)** "Eligible residential property owner", a person, firm or corporation who purchases, develops or rehabilitates a multifamily residential structure;

[(13)**]** **(14)** "Eligible small business", a person engaged in an activity with the purpose of obtaining, directly or indirectly, a gain, benefit or advantage and which conforms to the characteristics of paragraphs (a), (b) and (d) of subdivision (4) of this section, and also employs less than twenty-five employees;

[(14)**]** **(15)** "Eligible student borrower", any person attending, or the parent of a dependent undergraduate attending, an eligible higher education institution in Missouri who may or may not qualify for need-based student financial aid calculated by the federal analysis called Congressional Methodology Formula pursuant to 20 U.S.C. 1078, as amended (the Higher Education Amendments of 1986);

[(15)**]** **(16)** "Eligible water supply system", a water system which serves fewer than fifty thousand persons and which is owned and operated by:

(a) A public water supply district established pursuant to chapter 247, RSMo; or

(b) A municipality or other political subdivision; or

(c) A water corporation;

and which is certified by the department of natural resources in accordance with its rules and regulations to have suffered a significant decrease in its capacity to meet its service needs as a result of drought;

[(16)**]** **(17)** "Farming", using or cultivating land for the production of agricultural crops, livestock or livestock products, forest products, poultry or poultry products, milk or dairy products, or fruit or other horticultural products;

[(17)**]** **(18)** "Linked deposit", a certificate of deposit, or in the case of production credit associations, the subscription or purchase outright of obligations described in section 15, article IV, Constitution of Missouri, placed by the state treasurer with an eligible lending institution at rates otherwise provided by law in section 30.758, provided the institution agrees to lend the value of such deposit, according to the deposit agreement provided in sections 30.750 to 30.767, to eligible small businesses, **eligible locally owned businesses,** farming operations, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible student borrowers, eligible facility borrowers, or eligible water supply systems at below the present borrowing rate applicable to each small business, farming operation, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, or supply system at the time of the deposit of state funds in the institution;

[(18)**]** **(19)** "Market rate", the interest rate tied to federal government securities and more specifically described in subsection 4 of section 30.260;

[(19)**]** **(20)** "Water corporation", as such term is defined in section 386.020, RSMo;

[(20)**]** **(21)** "Water system", as such term is defined in section 386.020, RSMo.

30.753. TREASURER'S AUTHORITY TO INVEST IN LINKED DEPOSITS, LIMITATIONS. — 1. The state treasurer may invest in linked deposits; however, the total amount so deposited at any one time shall not exceed, in the aggregate, seven hundred twenty million dollars. No more than

three hundred thirty million dollars of the aggregate deposit shall be used for linked deposits to eligible farming operations, **eligible locally owned businesses,** eligible agribusinesses, eligible beginning farmers, eligible livestock operations, and eligible facility borrowers, no more than one hundred ten million of the aggregate deposit shall be used for linked deposits to small businesses, no more than twenty million dollars shall be used for linked deposits to eligible multitenant development enterprises, and no more than twenty million dollars of the aggregate deposit shall be used for linked deposits to eligible residential property developers and eligible residential property owners, no more than two hundred twenty million dollars of the aggregate deposit shall be used for linked deposits to eligible job enhancement businesses and no more than twenty million dollars of the aggregate deposit shall be used for linked deposit loans to eligible water systems. Linked deposit loans may be made to eligible student borrowers from the aggregate deposit. If demand for a particular type of linked deposit exceeds the initial allocation, and funds initially allocated to another type are available and not in demand, the state treasurer may commingle allocations among the types of linked deposits.

2. The minimum deposit to be made by the state treasurer to an eligible lending institution for eligible job enhancement business loans shall be ninety thousand dollars. Linked deposit loans for eligible job enhancement businesses may be made for the purposes of assisting with relocation expenses, working capital, interim construction, inventory, site development, machinery and equipment, or other expenses necessary to create or retain jobs in the recipient firm.

30.756. LENDING INSTITUTION RECEIVING LINKED DEPOSITS, REQUIREMENTS AND LIMITATIONS — FALSE STATEMENTS AS TO USE FOR LOAN, PENALTY — ELIGIBLE STUDENT BORROWERS — ELIGIBILITY, STUDENT RENEWAL LOANS, REPAYMENT METHOD — PRIORITY FOR REDUCED-RATE LOANS. — 1. An eligible lending institution that desires to receive a linked deposit shall accept and review applications for linked deposit loans from eligible multitenant enterprises, eligible farming operations, **eligible locally owned businesses,** eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible residential property developers, eligible residential property owners, eligible student borrowers, eligible facility borrowers, and eligible water supply systems. An eligible residential property owner shall certify on his or her loan application that the reduced rate loan will be used exclusively to purchase, develop or rehabilitate a multifamily residential property. The lending institution shall apply all usual lending standards to determine the credit worthiness of each eligible multitenant enterprise, eligible farming operation, **eligible locally owned business,** eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system. No linked deposit loan made to any eligible farming operation, **eligible locally owned business,** eligible livestock operation, eligible agribusiness or eligible small business shall exceed a dollar limit determined by the state treasurer in the state treasurer's best judgment, except as otherwise limited. Any link deposit loan made to an eligible facility borrower shall be in accordance with the loan amount and loan term requirements in section 30.860.

2. An eligible farming operation, small business or job enhancement business shall certify on its loan application that the reduced rate loan will be used exclusively for necessary production expenses or the expenses listed in subsection 2 of section 30.753 or the refinancing of an existing loan for production expenses or the expenses listed in subsection 2 of section 30.753 of an eligible farming operation, small business or job enhancement business. Whoever knowingly makes a false statement concerning such application is guilty of a class A misdemeanor. An eligible water supply system shall certify on its loan application that the reduced rate loan shall be used exclusively to pay the costs of upgrading or repairing an existing

water system, constructing a new water system, or making other capital improvements to a water system which are necessary to improve the service capacity of the system.

3. In considering which eligible farming operations should receive reduced rate loans, the eligible lending institution shall give priority to those farming operations which have suffered reduced yields due to drought or other natural disasters and for which the receipt of a reduced rate loan will make a significant contribution to the continued operation of the recipient farming operation.

4. The eligible financial institution shall forward to the state treasurer a linked deposit loan package, in the form and manner as prescribed by the state treasurer. The package shall include such information as required by the state treasurer, including the amount of each loan requested. The institution shall certify that each applicant is an eligible farming operation, **eligible locally owned business,** eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system, and shall, for each eligible farming operation, small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system, certify the present borrowing rate applicable.

5. The eligible lending institution shall be responsible for determining if a student borrower is an eligible student borrower. A student borrower shall be eligible for an initial or renewal reduced rate loan only if, at the time of the application for the loan, the student is a citizen or permanent resident of the United States, a resident of the state of Missouri as defined by the coordinating board for higher education, is enrolled or has been accepted for enrollment in an eligible higher education institution, and establishes that the student has financial need. In considering which eligible student borrowers may receive reduced rate loans, the eligible lending institution may give priority to those eligible student borrowers whose income, or whose family income, if the eligible student borrower is a dependent, is such that the eligible student borrower does not qualify for need-based student financial aid pursuant to 20 U.S.C. 1078, as amended (the Higher Education Amendments of 1986). The eligible lending institution shall require the eligible student borrower to document that the student has applied for and has obtained all need-based student financial aid for which the student is eligible prior to application for a reduced rate loan pursuant to this section. In no case shall the combination of all financial aid awarded to any student in any particular enrollment period exceed the total cost of attendance at the institution in which the student is enrolled. No eligible lending institution shall charge any additional fees, including but not limited to an origination, service or insurance fee on any loan agreement under the provisions of sections 30.750 to 30.765.

6. The eligible lending institution making an initial loan to an eligible student borrower may make a renewal loan or loans to the student. The total of such reduced rate loans from eligible lending institutions made pursuant to this section to any individual student shall not exceed the cumulative totals established by 20 U.S.C. 1078, as amended. An eligible student borrower shall certify on his or her loan application that the reduced rate loan shall be used exclusively to pay the costs of tuition, incidental fees, books and academic supplies, room and board and other fees directly related to enrollment in an eligible higher education institution. The eligible lending institution shall make the loan payable to the eligible student borrower and the eligible higher education institution as copayees. The method of repayment of the loan shall be the same as for repayment of loans made pursuant to sections 173.095 to 173.186, RSMo.

7. Beginning August 28, 2005, in considering which eligible multitenant enterprise, eligible farming operation, **eligible locally owned business,** eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply

system should receive reduced-rate loans, the eligible lending institution shall give priority to an eligible multitenant enterprise, eligible farming operation, **eligible locally owned business,** eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system that has not previously received a reduced-rate loan through the linked deposit program. However, nothing shall prohibit an eligible lending institution from making a reduced-rate loan to any entity that previously has received such a loan, if such entity otherwise qualifies for such a reduced-rate loan.

30.758. LOAN PACKAGE ACCEPTANCE OR REJECTION — LOAN AGREEMENT REQUIREMENTS — LINKED DEPOSIT AT REDUCED MARKET INTEREST RATE, WHEN. — 1. The state treasurer may accept or reject a linked deposit loan package or any portion thereof.

2. The state treasurer shall make a good faith effort to ensure that the linked deposits are placed with eligible lending institutions to make linked deposit loans to minority- or female-owned eligible multitenant enterprises, eligible farming operations, **eligible locally owned businesses,** eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible student borrowers, eligible facility borrowers, or eligible water supply systems. Results of such effort shall be included in the linked deposit review committee's annual report to the governor.

3. Upon acceptance of the linked deposit loan package or any portion thereof, the state treasurer may place linked deposits with the eligible lending institution as follows: when market rates are five percent or above, the state treasurer shall reduce the market rate by up to three percentage points to obtain the linked deposit rate; when market rates are less than five percent, the state treasurer shall reduce the market rate by up to sixty percent to obtain the linked deposit rate, provided that the linked deposit rate is not below one percent. All linked deposit rates are determined and calculated by the state treasurer. When necessary, the treasurer may place linked deposits prior to acceptance of a linked deposit loan package.

4. The eligible lending institution shall enter into a deposit agreement with the state treasurer, which shall include requirements necessary to carry out the purposes of sections 30.750 to 30.767. The deposit agreement shall specify the length of time for which the lending institution will lend funds upon receiving a linked deposit, and the original deposit plus renewals shall not exceed five years, except as otherwise provided in this chapter. The agreement shall also include provisions for the linked deposit of a linked deposit for an eligible facility borrower, eligible multitenant enterprise, eligible farming operation, **eligible locally owned business,** small business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or job enhancement business. Interest shall be paid at the times determined by the state treasurer.

5. The period of time for which such linked deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked deposit is used to provide loans at reduced interest rates. The agreement shall further provide that the state shall receive market interest rates on any linked deposit or any portion thereof for any period of time for which there is no corresponding linked deposit loan outstanding to an eligible multitenant enterprise, eligible farming operation, **eligible locally owned business,** eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system, except as otherwise provided in this subsection. Within thirty days after the annual anniversary date of the linked deposit, the eligible lending institution shall repay the state treasurer any linked deposit principal received from borrowers in the previous yearly

period and thereafter repay such principal within thirty days of the yearly anniversary date calculated separately for each linked deposit loan, and repaid at the linked deposit rate. Such principal payment shall be accelerated when more than thirty percent of the linked deposit loan is repaid within a single monthly period. Any principal received and not repaid, up to the point of the thirty percent or more payment, shall be repaid within thirty days of that payment at the linked deposit rate. Finally, when the linked deposit is tied to a revolving line of credit agreement between the banking institution and its borrower, the full amount of the line of credit shall be excluded from the repayment provisions of this subsection.

30.760. LOANS TO BE AT FIXED RATE OF INTEREST SET BY RULES — RECORDS OF LOANS TO BE SEGREGATED — PENALTY FOR VIOLATIONS — STATE TREASURER, POWERS AND DUTIES. — 1. Upon the placement of a linked deposit with an eligible lending institution, such institution is required to lend such funds to each approved eligible multitenant enterprise, eligible farm operation, **eligible locally owned business,** eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system listed in the linked deposit loan package required by section 30.756 and in accordance with the deposit agreement required by section 30.758. The loan shall be at a fixed rate of interest reduced by the amount established under subsection 3 of section 30.758 to each eligible multitenant enterprise, eligible farming operation, **eligible locally owned business,** eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system as determined pursuant to rules and regulations promulgated by the state treasurer under the provisions of chapter 536, RSMo, including emergency rules issued pursuant to section 536.025, RSMo. In addition, the loan agreement shall specify that the eligible multitenant enterprise, eligible farming operation, **eligible locally owned business,** eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system shall use the proceeds as required by sections 30.750 to 30.765, and that in the event the loan recipient does not use the proceeds in the manner prescribed by sections 30.750 to 30.765, the remaining proceeds shall be immediately returned to the lending institution and that any proceeds used by the loan recipient shall be repaid to the lending institution as soon as practicable. All records and documents pertaining to the programs established by sections 30.750 to 30.765 shall be segregated by the lending institution for ease of identification and examination. A certification of compliance with this section in the form and manner as prescribed by the state treasurer shall be required of the eligible lending institution. Any lender or lending officer of an eligible lending institution who knowingly violates the provisions of sections 30.750 to 30.765 is guilty of a class A misdemeanor.

2. The state treasurer shall take any and all steps necessary to implement the linked deposit program and monitor compliance of eligible multitenant enterprises, eligible lending institutions, eligible farming operations, **eligible locally owned businesses,** eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible facility borrowers, or eligible water supply systems.

30.765. STATE AND STATE TREASURER NOT LIABLE ON LOANS — DEFAULT ON A LOAN NOT TO AFFECT DEPOSIT AGREEMENT WITH STATE. — The state and the state treasurer are not liable to any eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible multitenant enterprise, eligible farm operation, **eligible locally owned**

business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system. Any delay in payments or default on the part of an eligible multitenant enterprise, eligible farming operation, **eligible locally owned business,** eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water supply system does not in any manner affect the deposit agreement between the eligible lending institution and the state treasurer.

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

(1) By ordinance introduced in the governing body of the municipality within fourteen to ninety days from the completion of the hearing required in section 99.825, approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to the notice and hearing requirements of sections 99.800 to 99.865. No redevelopment project shall be approved unless a redevelopment plan has been approved and a redevelopment area has been designated prior to or concurrently with the approval of such redevelopment project and the area selected for the redevelopment project shall include only those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements;

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

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

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

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

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

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

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

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

(10) Incur redevelopment costs and issue obligations;

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

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

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

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

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

(13) If any member of the governing body of the municipality, a member of a commission established pursuant to subsection 2 of this section, or an employee or consultant of the municipality, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, which property is designated to be acquired or improved pursuant to a redevelopment project, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to such redevelopment plan, redevelopment project or redevelopment area, from voting on any matter pertaining to such redevelopment plan, redevelopment project or redevelopment area, or communicating with other members concerning any matter pertaining to that redevelopment plan, redevelopment project or redevelopment area. Furthermore, no such member or employee shall acquire any interest, direct or indirect, in any property in a redevelopment area or proposed redevelopment area after either (a) such individual obtains knowledge of such plan or project, or (b) first public notice of such plan, project or area pursuant to section 99.830, whichever first occurs;

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

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

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

(2) In all municipalities one member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected

for a redevelopment project or the redevelopment area, excluding representatives of the governing body of the municipality;

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

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

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

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

(7) **Effective January 1, 2008, in a municipality which is in a county under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, the municipality shall create a commission in the same manner as the commission for any county with a charter form of government and with more than one million inhabitants, such commission shall have twelve members with two such members appointed by the school boards whose districts are included in the county in a manner in which such school boards agree, with one such member to represent all other districts levying ad valorem taxes in a manner in which all such districts agree, six such members appointed either by the county executive or county commissioner, and three such members appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;**

(8) Effective January 1, 2008, when any city, town, or village under the authority of the East-West Gateway Council of Governments desires to implement a tax increment financing project, such city, town, or village shall first obtain the permission of the county tax increment financing commission created in this subsection within which the city, town, or village is located. In the event such commission votes in opposition to the redevelopment project, such redevelopment project shall not be approved unless at least two-thirds of the governing body of the city, town, or village votes to approve such project;

(9) At the option of the members appointed by the municipality, the members who are appointed by the school boards and other taxing districts may serve on the commission for a term to coincide with the length of time a redevelopment project, redevelopment plan or designation of a redevelopment area is considered for approval by the commission, or for a definite term pursuant to this subdivision. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time a redevelopment project, plan or area is approved, such term shall terminate upon final approval of the project, plan or designation of the area by the governing body of the municipality. Thereafter the commission shall consist of the six members appointed by the municipality, except that members representing school boards and other taxing districts shall be appointed as provided in this section prior to any amendments to any redevelopment plans, redevelopment projects or designation of a redevelopment area. If any school district or other taxing jurisdiction fails to appoint members of the commission within thirty days of receipt of written notice of a proposed redevelopment plan, redevelopment project or designation of a redevelopment area, the remaining members may proceed to exercise the power of the commission. Of the members first appointed by the municipality, two shall be designated to serve for terms of two years, two shall be designated to serve for a term of three years and two shall be designated to serve for a term of four years from

the date of such initial appointments. Thereafter, the members appointed by the municipality shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

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

99.825. ADOPTION OF ORDINANCE FOR REDEVELOPMENT, PUBLIC HEARING REQUIRED — OBJECTION PROCEDURE — HEARING AND NOTICES NOT REQUIRED, WHEN — RESTRICTIONS ON CERTAIN PROJECTS. — 1. Prior to the adoption of an ordinance proposing the designation of a redevelopment area, or approving a redevelopment plan or redevelopment project, the commission 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, plan or project. At the public hearing any interested person or affected taxing district may file with the commission written objections to, or comments on, and may be heard orally in respect to, any issues embodied in the notice. The commission 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, or redevelopment area, provided that each affected taxing district is given written notice of such changes at least seven days prior to the conclusion of the hearing. After the public hearing but prior to the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, changes may be made to the redevelopment plan, redevelopment projects or redevelopment areas without a further hearing, if such changes do not enlarge the exterior boundaries of the redevelopment area or areas, and do not substantially affect the general land uses established in the redevelopment plan or substantially change the nature of the redevelopment projects, 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 area of the proposed redevelopment not less than ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, no ordinance shall be adopted altering the exterior boundaries, affecting the general land uses established pursuant to the redevelopment plan or changing the nature of the redevelopment project without complying with the procedures provided in this section pertaining to the initial approval of a redevelopment plan or redevelopment project and designation of a redevelopment area. Hearings with regard to a redevelopment project, redevelopment area, or redevelopment plan may be held simultaneously.

2. **Effective January 1, 2008, if, after concluding the hearing required under this section, the commission makes a recommendation under section 99.820 in opposition to a proposed redevelopment plan, redevelopment project, or designation of a redevelopment area, or any amendments thereto, a municipality desiring to approve such project, plan, designation, or amendments shall do so only upon a two-thirds majority vote of the governing body of such municipality.**

3. Tax incremental financing projects within an economic development area shall apply to and fund only the following infrastructure projects: highways, roads, streets, bridges, sewers, traffic control systems and devices, water distribution and supply systems, curbing, sidewalks and any other similar public improvements, but in no case shall it include buildings.

99.1100. JOINT COMMITTEE ON TAX POLICY TO CONDUCT STUDY. — 1. The joint committee on tax policy shall conduct a study of the feasibility of creating a program to allow municipalities within the state to engage in tax increment finance-like projects with optional tax abatement in any area of such municipality regardless of the existence of blight. The committee shall report its findings to the general assembly no later than December 31, 2007.

2. The provisions of this section shall expire on January 1, 2008.

135.535. TAX CREDIT FOR RELOCATING A BUSINESS TO A DISTRESSED COMMUNITY, APPROVAL BY DEPARTMENT OF ECONOMIC DEVELOPMENT, APPLICATION — EMPLOYEES ELIGIBLE TO RECEIVE CREDIT — CREDIT FOR EXPENDITURES ON EQUIPMENT — TRANSFER OF CERTIFICATE OF CREDIT — MAXIMUM AMOUNT ALLOWED, CREDIT CARRIED OVER — LIMITATIONS — TAX CREDIT FOR EXISTING BUSINESS IN A DISTRESSED COMMUNITY WHICH HIRES NEW EMPLOYEES, CONDITIONS AND TYPES OF BUSINESSES ELIGIBLE. — 1. A corporation, limited liability corporation, partnership or sole proprietorship, which moves its operations from outside Missouri or outside a distressed community into a distressed community, or which commences operations in a distressed community on or after January 1, 1999, and in either case has more than seventy-five percent of its employees at the facility in the distressed community, and which has fewer than one hundred employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, including Internet, web hosting, and other information technology, wireless or wired or other telecommunications or a professional firm shall receive a forty percent credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such move, if approved by the department of economic development, which shall issue a certificate of eligibility if the department determines that the taxpayer is eligible for such credit. The maximum amount of credits per taxpayer set forth in this subsection shall not exceed one hundred twenty-five thousand dollars for each of the three years for which the credit is claimed. The department of economic development, by means of rule or regulation promulgated pursuant to the provisions of chapter 536, RSMo, shall assign appropriate North American Industry Classification System numbers to the companies which are eligible for the tax credits provided for in this section. Such three-year credits shall be awarded only one time to any company which moves its operations from outside of Missouri or outside of a distressed community into a distressed community or to a company which commences operations within a distressed community. A taxpayer shall file an application for certification of the tax credits for the first year in which credits are claimed and for each of the two succeeding taxable years for which credits are claimed.

2. Employees of such facilities physically working and earning wages for that work within a distressed community whose employers have been approved for tax credits pursuant to subsection 1 of this section by the department of economic development for whom payroll taxes are paid shall also be eligible to receive a tax credit against individual income tax, imposed pursuant to chapter 143, RSMo, equal to one and one-half percent of their gross salary paid at such facility earned for each of the three years that the facility receives the tax credit provided by this section, so long as they were qualified employees of such entity. The employer shall calculate the amount of such credit and shall report the amount to the employee and the department of revenue.

3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the credit against income taxes as provided in subsection 1 of this section, may be taken by such an entity in a distressed community in an amount of forty percent of the amount of funds expended for computer equipment and its maintenance, medical laboratories and equipment, research laboratory equipment, manufacturing equipment, fiber optic equipment, high speed telecommunications, wiring or software development expense up to a maximum of seventy-five thousand dollars in tax credits for such equipment or expense per year per entity and for each of three years after commencement in or moving operations into a distressed community.

4. A corporation, partnership or sole partnership, which has no more than one hundred employees for whom payroll taxes are paid, which is already located in a distressed community and which expends funds for such equipment pursuant to subsection 3 of this section in an amount exceeding its average of the prior two years for such equipment, shall be eligible to receive a tax credit against income taxes owed pursuant to chapters 143, 147 and 148, RSMo, in an amount equal to the lesser of seventy-five thousand dollars or twenty-five percent of the funds expended for such additional equipment per such entity. Tax credits allowed pursuant to this subsection or subsection 1 of this section may be carried back to any of the three prior tax years and carried forward to any of the five tax years.

5. An existing corporation, partnership or sole proprietorship that is located within a distressed community and that relocates employees from another facility outside of the distressed community to its facility within the distressed community, and an existing business located within a distressed community that hires new employees for that facility may both be eligible for the tax credits allowed by subsections 1 and 3 of this section. To be eligible for such tax credits, such a business, during one of its tax years, shall employ within a distressed community at least twice as many employees as were employed at the beginning of that tax year. A business hiring employees shall have no more than one hundred employees before the addition of the new employees. This subsection shall only apply to a business which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming or telecommunications business, or a professional firm.

6. Tax credits shall be approved for applicants meeting the requirements of this section in the order that such applications are received. Certificates of tax credits issued in accordance with this section may be transferred, sold or assigned by notarized endorsement which names the transferee.

7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall be for an amount of no more than ten million dollars for each year beginning in 1999. **To the extent there are available tax credits remaining under the ten million dollar cap provided in this section, up to one hundred thousand dollars in the remaining credits shall first be used for tax credits authorized under section 135.562.** The total maximum credit for all entities already located in distressed communities and claiming credits pursuant to subsection 4 of this section shall be seven hundred and fifty thousand dollars. The department of economic development in approving taxpayers for the credit as provided for in subsection 6 of this section shall use information provided by the department of revenue regarding taxes paid in the previous year, or projected taxes for those entities newly established in the state, as the method of determining when this maximum will be reached and shall maintain a record of the order of approval. Any tax credit not used in the period for which the credit was approved may be carried over until the full credit has been allowed.

8. A Missouri employer relocating into a distressed community and having employees covered by a collective bargaining agreement at the facility from which it is relocating shall not be eligible for the credits in subsection 1, 3, 4 or 5 of this section, and its employees shall not be eligible for the credit in subsection 2 of this section if the relocation violates or terminates a collective bargaining agreement covering employees at the facility, unless the affected collective bargaining unit concurs with the move.

9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and 135.245, respectively, for the same business for the same tax period.

135.562. PRINCIPAL DWELLINGS, TAX CREDIT FOR RENOVATIONS FOR DISABILITY ACCESS. — 1. If any taxpayer with a federal adjusted gross income of thirty thousand dollars or less incurs costs for the purpose of making all or any portion of such taxpayer's principal dwelling accessible to an individual with a disability who permanently resides with the taxpayer, such taxpayer shall receive a tax credit against such taxpayer's Missouri income tax liability in an amount equal to the lesser of one hundred percent of such costs or two thousand five hundred dollars per taxpayer, per tax year.

2. Any taxpayer with a federal adjusted gross income greater than thirty thousand dollars but less than sixty thousand dollars who incurs costs for the purpose of making all or any portion of such taxpayer's principal dwelling accessible to an individual with a disability who permanently resides with the taxpayer, shall receive a tax credit against such taxpayer's Missouri income tax liability in an amount equal to the lesser of fifty percent of such costs or two thousand five hundred dollars per taxpayer, per tax year. No taxpayer shall be eligible to receive tax credits under this section in any tax year immediately following a tax year in which such taxpayer received tax credits under the provisions of this section.

3. Tax credits issued pursuant to this section may be refundable in an amount not to exceed two thousand five hundred dollars per tax year.

4. Eligible costs for which the credit may be claimed include:

(1) Constructing entrance or exit ramps;

(2) Widening exterior or interior doorways;

(3) Widening hallways;

(4) Installing handrails or grab bars;

(5) Moving electrical outlets and switches;

(6) Installing stairway lifts;

(7) Installing or modifying fire alarms, smoke detectors, and other alerting systems;

(8) Modifying hardware of doors; or

(9) Modifying bathrooms.

5. The tax credits allowed, including the maximum amount that may be claimed, pursuant to this section shall be reduced by an amount sufficient to offset any amount of such costs a taxpayer has already deducted from such taxpayer's federal adjusted gross income or to the extent such taxpayer has applied any other state or federal income tax credit to such costs.

6. A taxpayer shall claim a credit allowed by this section in the same taxable year as the credit is issued, and at the time such taxpayer files his or her Missouri income tax return; provided that, such return is timely filed.

7. The department may, in consultation with the department of social services, promulgate such rules or regulations as are necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

8. The provisions of this section shall apply to all tax years beginning on or after January 1, 2008.

9. The provisions of this section shall expire December 31, 2013.

10. In no event shall the aggregate amount of all tax credits allowed pursuant to this section exceed one hundred thousand dollars in any given fiscal year. The tax credits issued pursuant to this section shall be on a first-come, first-served filing basis.

142.031. MISSOURI QUALIFIED BIODIESEL PRODUCER FUND CREATED — ELIGIBILITY FOR GRANTS — RULEMAKING AUTHORITY — EXPIRATION DATE — SALE OF FACILITY, EFFECT OF. — 1. As used in this section the following terms shall mean:

(1) "Biodiesel", fuel as defined in ASTM Standard D-6751 or its subsequent standard specifications for biodiesel fuel (B100) blend stock for distillate fuels;

(2) "Missouri qualified biodiesel producer", a facility that produces biodiesel, is registered with the United States Environmental Protection Agency according to the requirements of 40 CFR 79, and:

(a) **a.** Is at least fifty-one percent owned by agricultural producers who are residents of this state and who are actively engaged in agricultural production for commercial purposes; or

[(b)**] b.** At least eighty percent of the feedstock used by the facility originates in the state of Missouri. For purposes of this section, "feedstock" means **[**a Missouri agricultural product as defined in section 348.400, RSMo**] an agricultural, horticultural, viticultural, vegetable, aquacultural, livestock, forestry, or poultry product either in its natural or processed state; and**

(b) Meets all of the following:

a. Has registered with the department of agriculture by September 1, 2007;

b. Has begun construction of the facility before November 1, 2007; and

c. Has begun production of biodiesel before March 1, 2009.

2. The "Missouri Qualified Biodiesel Producer Incentive Fund" is hereby created and subject to appropriations shall be used to provide economic subsidies to Missouri qualified biodiesel producers pursuant to this section. The director of the department of agriculture shall administer the fund pursuant to this section.

3. A Missouri qualified biodiesel producer shall be eligible for a monthly grant from the fund provided that one hundred percent of the feedstock originates in the United States. However, the director may waive the feedstock requirements on a month-to-month basis if the facility provides verification that adequate feedstock is not available. A Missouri qualified biodiesel producer shall only be eligible for the grant for a total of sixty months unless such producers during the sixty months fail, due to a lack of appropriations, to receive the full amount from the fund for which the producers were eligible, in which case such producers shall continue to be eligible for up to twenty-four additional months or until they have received the maximum amount of funding for which such producers were eligible during the original sixty-month time period. The amount of the grant is determined by calculating the estimated gallons of qualified biodiesel produced during the preceding month from **[**Missouri agricultural products**] feedstock**, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. Each Missouri qualified biodiesel producer shall be eligible for a total grant in any fiscal year equal to thirty cents per gallon for the first fifteen million gallons of qualified biodiesel produced from **[**Missouri agricultural products**] feedstock** in the fiscal year plus ten cents per gallon for the next fifteen million gallons of qualified biodiesel produced from **[**Missouri agricultural products**] feedstock** in the fiscal year. All such qualified biodiesel produced by a Missouri qualified biodiesel producer in excess of thirty million gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and approval of the application described in subsection 4 of this section.

4. In order for a Missouri qualified biodiesel producer to obtain a grant from the fund, an application for such funds shall be received no later than fifteen days following the last day of the month for which the grant is sought. The application shall include:

(1) The location of the Missouri qualified biodiesel producer;

(2) The average number of citizens of Missouri employed by the Missouri qualified biodiesel producer in the preceding month, if applicable;

(3) The number of bushel equivalents of Missouri **[**agricultural commodities**]** **feedstock and out-of-state feedstock** used by the Missouri qualified biodiesel producer in the production of biodiesel in the preceding month;

(4) The number of gallons of qualified biodiesel the producer manufactures during the month for which the grant is applied;

(5) A copy of the qualified biodiesel producer license required pursuant to subsection 5 of this section, name and address of surety company, and amount of bond to be posted pursuant to subsection 5 of this section; and

(6) Any other information deemed necessary by the department of agriculture to adequately ensure that such grants shall be made only to Missouri qualified biodiesel producers.

5. The director of the department of agriculture, in consultation with the department of revenue, shall promulgate rules and regulations necessary for the administration of the provisions of this section.

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

7. This section shall expire on December 31, 2009. However, Missouri qualified biodiesel producers receiving any grants awarded prior to December 31, 2009, shall continue to be eligible for the remainder of the original sixty-month time period under the same terms and conditions of this section unless such producer during such sixty months failed, due to a lack of appropriations, to receive the full amount from the fund for which he or she was eligible. In such case, such producers shall continue to be eligible for up to twenty-four additional months or until they have received the maximum amount of funding for which they were eligible during the original sixty-month time period.

8. Any Missouri qualified biodiesel producer who receives any grant payments under this section who subsequently sells the biodiesel facility shall be subject to the following payback requirements:

(1) If such facility is sold within less than one year of the date of issuance of the last grant payment, the Missouri qualified biodiesel producer shall pay the state the amount of fifty percent of the total amount of grant payments received under this section;

(2) If such facility is sold within one to two years of the date of issuance of the last grant payment, the Missouri qualified biodiesel producer shall pay the state the amount of forty percent of the total amount of grant payments received under this section;

(3) If such facility is sold within two to three years of the date of issuance of the last grant payment, the Missouri qualified biodiesel producer shall pay the state the amount of thirty percent of the total amount of grant payments received under this section;

(4) If such facility is sold within three to four years of the date of issuance of the last grant payment, the Missouri qualified biodiesel producer shall pay the state the amount of twenty percent of the total amount of grant payments received under this section;

(5) If such facility is sold within four to five years of the date of issuance of the last grant payment, the Missouri qualified biodiesel producer shall pay the state the amount of ten percent of the total amount of grant payments received under this section.

If the sale date of the facility falls on a date that qualifies under more than one subdivision of this subsection, the greater payback amount shall apply. For purposes of this subsection, a facility shall be considered "sold" when there is a change in at least fifty-one percent of the facility's ownership in a transaction that involves a buyer or buyers and a seller or sellers.

251.600. CITATION OF LAW. — Sections 251.600 to 251.630 shall be known and may be cited as the "Regional Economic Development District Law".

251.603. DEFINITIONS. — As used in sections 251.600 to 251.630, the following terms shall mean:

(1) "Baseline year", the calendar year prior to the effective date of a resolution by the regional economic development district board approving a regional economic development project; provided, however, if economic activity taxes from businesses other than businesses locating in the regional economic development project area decrease in the regional economic development project area in the year following the year in which the resolution approving a regional economic development project is approved by a regional economic development district board, the baseline year may, at the option of the regional economic development district board approving the regional economic development project, be the year following the year of the adoption of the resolution approving the regional economic development project;

(2) "Board", a regional economic development district board created under the provisions of section 251.605;

(3) "Collecting officer", the officer of the municipality, county, or other taxing jurisdiction responsible for receiving and processing payments in lieu of taxes and economic activity taxes and the officer of the municipality, county, or other taxing jurisdiction responsible for receiving and processing local sales tax revenues collected by the director of revenue on behalf of such municipality, county, or other taxing jurisdiction;

(4) "County", any county of the state of Missouri and any city not within a county;

(5) "Economic activity taxes", the total additional revenue from taxes which are imposed by a municipality, county, or other taxing districts, and which are generated by economic activities within each regional economic development project area, which exceed the amount of such taxes generated by economic activities within such regional economic development project area in the baseline year; but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees, special assessments, and any taxes imposed by the municipality, county, or other taxing district after the effective date of a resolution by a regional economic development district board approving a regional economic development project;

(6) "Governing body", a legislative body or other authority governing a city, county, or a city not within a county;

(7) "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by a regional economic development district, municipality, county, or commission, or other public entity authorized to issue such obligations under the regional economic development district law to carry out a regional economic development project or to refund outstanding obligations;

(8) "Payment in lieu of taxes", those revenues from real property in each regional economic development project area, which taxing districts would have received had the regional economic development district not adopted a regional economic development plan and which would result from levies made after the effective date of a resolution of the board approving a regional economic development project during the time the current equalized value of real property in such regional economic development project area exceeds the total equalized value of real property in such regional economic development

project area during the baseline year until incremental tax financing for such regional economic development project area expires or is terminated under the provisions of the regional economic development district law;

(9) "Regional economic development area", an area designated by a regional economic development district board which shall have the following characteristics:

(a) It includes only those parcels of real property directly and substantially benefitted by the proposed regional economic development plan;

(b) It will be improved by the regional economic development project;

(c) It is contiguous;

(d) It is not included in any other redevelopment plan or using any other tax increment financing program; and

(e) The board has declared development of the area is not likely to occur without benefit of the proposed regional economic development plan;

(10) "Regional economic development district", a district formed by agreement of two or more county or city governing bodies for the purpose of the economic development of such district, the boundaries of which may encompass all or any part of one or more entire counties and all or any part of one or more entire cities;

(11) "Regional economic development plan", the comprehensive program of a regional economic development district to improve a regional economic development area, thereby enhancing the tax bases of the taxing districts which extend into the regional economic development area, through the reimbursement, payment, or other financing of regional economic development project costs in accordance with the regional economic development district law. The regional economic development plan shall conform to the requirements of section 251.621;

(12) "Regional economic development project", any regional economic development project within a regional economic development area which constitutes a major initiative in furtherance of the objectives of the regional economic development plan, and any such regional economic development project shall include a legal description of the area selected for such regional economic development project;

(13) "Regional economic development project area", the area located within a regional economic development area selected for a regional economic development project;

(14) "Regional economic development project costs", costs to the regional economic development plan or a regional economic development project, as applicable, which are expended on public property, buildings, or rights-of-ways for public purposes to provide infrastructure or support for a regional economic development project. Such costs shall only be allowed as an initial expense which, to be recoverable, shall be included in the costs of a regional economic development plan or regional economic development project, including any amendments thereto adopted by the board of the regional economic development district. 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 regional economic 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 regional economic development project necessarily incurred or to be incurred in furtherance of the objectives of the regional economic development plan, to the extent the board by written agreement accepts and approves such infrastructure costs; and

(h) Payments to taxing districts on a pro rata basis to partially reimburse taxes diverted by approval of a regional economic development project as approved by the board. In addition, any revenues of the regional economic development district may be expended on or used to reimburse any reasonable or necessary costs incurred or estimated to be incurred in furtherance of a regional economic development plan or a regional economic development project;

(15) "Resolution", a resolution enacted by the regional economic development district board;

(16) "Special allocation fund", the fund of the regional economic development district required to be established under section 251.618 which special allocation fund shall contain at least three separate segregated accounts into which payments in lieu of taxes are deposited in one account, economic activity taxes are deposited in a second account, and other revenues, if any, received by the regional economic development district for the purpose of implementing a regional economic development plan or a regional economic development project are deposited in a third account;

(17) "Taxing district's capital costs", those costs of taxing districts for capital improvements that are found by the regional economic development district to be necessary and to directly result from a regional economic development project; and

(18) "Taxing districts", any political subdivision of this state having the power to levy taxes if the future tax revenues of such district would be affected by the establishment of a regional economic development project.

251.605. DISTRICT MAY BE ESTABLISHED — BOARD, MEMBERS, HOW APPOINTED. — 1. A regional economic development district may be established by two or more governing bodies in order to plan, formulate, develop, promote, fund, conduct or cause to be conducted, programs to encourage the economic development of the district. The governing bodies may establish such districts by enactment of identical ordinances or by mutual agreement of the governing bodies.

2. The qualifications, terms, and number of members of the regional economic development district board for each district shall be determined by the enacting ordinances or the mutual agreement of the governing bodies, except as provided in this subsection. Each governing body located in the regional economic development district shall have equal representation on the board. The chief executive officer of a county in the regional economic development district or mayor of a city in the regional economic development district shall appoint one resident each of such county or city to be on the board, and such officers shall jointly appoint one additional member to the board. The board shall select a chairman, treasurer, and any other officers it deems necessary to conduct its business, and shall meet in open session at a time and place designated by the chairman in order to make policy and administer the activities of the district.

3. The regional economic development district shall be a public governmental body for the purposes of section 610.010, RSMo, and shall comply with the provisions of chapter 610, RSMo.

251.610. POWERS OF THE BOARD. — The ordinances or mutual agreements which establish the district shall specify the powers of the board. The powers of the board shall not include the power of eminent domain. The powers of the board may include, but shall not be limited to, the following:

(1) Adoption of bylaws, rules and regulations for the conduct of its business;

(2) Maintenance of a principal office;

(3) The ability to sue and be sued;

(4) The creation of a regional economic development plan for a regional economic development district;

(5) The making and executing of leases, contracts, and other instruments necessary to exercise its powers;

(6) Contracting with cities and counties for services, and with firms, corporations, persons, and governmental agencies in the necessary performance of its duties;

(7) The employment of personnel;

(8) Application for and acceptance of local and federal grants and appropriations;

(9) Performance of site improvements within the regional economic development area;

(10) Entering into lease or lease-purchase agreements for any real or personal property necessary or convenient for the purposes of the regional economic development district;

(11) Borrowing money for regional economic development district purposes at such rates of interest as the district may determine;

(12) Issuance of bonds, notes, and other obligations, which may be secured by mortgage, pledge, assignment, or deed of trust of any or all of the property and income of the regional economic development district, subject to any restrictions provided in the regional economic development district law; except that the district shall not mortgage, pledge, or give a deed of trust on any real property or interests which it acquired from the state of Missouri or any agency or political subdivision thereof without the written consent of the state, agency or political subdivision from which it obtained the property;

(13) Submission of a regional economic development sales tax to district voters as provided in section 251.615; and

(14) Adoption of incremental tax financing as provided in section 251.618.

251.615. SALES TAX AUTHORIZED, BALLOT LANGUAGE — DEPOSIT OF TAX REVENUE, USE OF MONEYS — ABOLISHMENT OF TAX, EFFECT OF — ANNUAL REPORT, CONTENTS — SEVERABILITY CLAUSE. — 1. Any city or county that has agreed to form a regional economic development district created under the regional economic development district law which consists of all of one or more entire counties, all of one or more entire cities, or all of one or more entire counties and one or more entire cities which are totally outside the boundaries of those counties, may impose, by resolution of the governing body of the city or county, a sales tax on all retail sales made in the city or county which are subject to sales tax under chapter 144, RSMo, for the benefit of the regional economic development district. The sales tax may be imposed at a rate of one-eighth of one percent, one-fourth of one percent, three-eighths of one percent or one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any such city or 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 resolution 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 city or county 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.

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

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

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the resolution and any amendments thereto shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the city or county shall have no power to impose the sales tax authorized by this section unless and until the proposal is resubmitted under this section and such proposal is approved by a majority of the qualified voters voting thereon.

3. All sales taxes collected by the director of revenue under this section on behalf of any city or county for the benefit of a regional economic development district, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Regional Economic Development District Sales Tax Trust Fund".

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

5. 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 distributed to the treasurer of the governing body of the city or county which shall deposit all such funds for the benefit of the district. All expenditures of funds arising from the regional economic development district sales tax trust fund shall be in accordance with the regional economic development district law.

6. 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 city or county.

7. If any city or county abolishes the tax, the governing body of 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 district, 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.

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

9. 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 city or county in accordance with applicable laws relating to the investment of other city or county funds.

10. The board shall consider regional economic development plans, regional economic development projects, or designations of a regional economic development district and shall hold public hearings and provide notice of any such hearings. The board shall vote on all proposed regional economic development plans, regional economic development projects, or designations of a regional economic development district, and amendments thereto, within thirty days following completion of the hearing on any such plan, project, or designation, and shall make the final determination on use and expenditure of any funds received from the tax imposed under this section.

11. Notwithstanding any other provision of law to the contrary, the regional economic development district 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 approved by the regional economic development district board established under the regional economic development district law and the governing body of the city or county imposing the tax.

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

13. (1) No city or county imposing a sales tax under this section may repeal or amend such sales tax unless such repeal or amendment will not impair the district's ability to repay any liabilities which it has incurred, money which it has borrowed, or revenue bonds, notes, or other obligations which it has issued to finance any project or projects.

(2) Whenever the governing body of any city or county in which a regional economic development district sales tax has been imposed in the manner provided by this section receives a petition, signed by ten percent of the qualified voters of such city or county calling for an election to repeal such regional economic development district sales tax, the governing body shall, if such repeal will not impair the district's ability to repay any liabilities which it has incurred, money which it has borrowed, or revenue bonds, notes, or other obligations which it has issued to finance any project or projects, submit to the voters of such city or county a proposal to repeal the regional economic development district sales tax imposed under this section. If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal to repeal the regional economic development district sales tax, then the resolution imposing the regional economic development district sales tax, along with any amendments thereto, is repealed. If a majority of the votes cast by the qualified voters voting thereon are opposed to the proposal to repeal the regional economic development district sales tax, then the resolution imposing the regional economic development district sales tax, along with any amendments thereto, shall remain in effect.

14. If any provision of the regional economic development district law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of the regional economic development district law which can be given effect without the invalid provision or application, and to this end the provisions of the regional economic development district law are declared severable.

251.618. INCREMENTAL TAX FINANCING PERMITTED, WHEN — COUNTY ASSESSOR DUTIES — TAX RATES, DETERMINATION OF. — 1. A regional economic development district board, after adopting a regional economic development plan, may adopt incremental tax financing as set forth in this section for the purposes of the district by passing a resolution, however, incremental tax financing shall not be available for any retail projects. Upon the

adoption of the first of any such resolutions, the treasurer of the board shall establish a special allocation fund for the regional economic development district.

2. Immediately upon the adoption of a resolution implementing incremental tax financing under subsection 1 of this section, the county assessor shall determine the total equalized assessed value of all taxable real property within such regional economic development district by adding together the most recently ascertained equalized assessed value of each taxable lot, block, tract, or parcel of real property within such regional economic development project area as of the date of the adoption of such resolution and shall provide to the treasurer of the board written certification of such amount as the total initial equalized assessed value of the taxable real property within such regional economic development district.

3. In each of the twenty-five calendar years following the adoption of a resolution adopting incremental tax financing for a regional economic development district under this section unless and until such incremental tax financing for such district is terminated by resolution of the regional economic development district board, the ad valorem taxes, and payments in lieu of taxes, if any, arising from the levies upon taxable real property in such regional economic development project area by taxing districts at the tax rates determined in the manner provided in section 251.627 shall be divided as follows:

(1) That portion of taxes, penalties, and interest levied upon each taxable lot, block, tract, or parcel of real property in such regional economic development project area which is attributable to the initial equalized assessed value of each such taxable lot, block, tract, or parcel of real property in such regional economic development project area as certified by the county assessor in accordance with subsection 2 of this section plus an annual tax base adjustment equal to the percentage change in the general price level as measured by the consumers 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, shall be allocated to and, when collected, shall be paid by the collecting authority to the respective affected taxing districts in the manner required by law in the absence of the adoption of incremental tax financing. For the purpose of determining the percentage change in the general price level, the treasurer of the regional economic development district board shall determine the consumer price index as defined herein for the preceding calendar year over the consumer price index for the calendar year immediately prior thereto;

(2) Payments in lieu of taxes attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property in the regional economic development project area and any applicable penalty and interest over and above the initial equalized assessed value of each such taxable lot, block, tract, or parcel of real property in such regional economic development project area as certified by the county assessor and as adjusted by the annual tax base adjustment as detailed in this section shall be allocated to and, when collected, shall be paid by the collecting officer of the municipality or county to the treasurer of the regional economic development district who shall deposit such payment in lieu of taxes into a separate segregated account for payments in lieu of taxes within the special allocation fund. Payments in lieu of taxes which are due and owing shall constitute a lien against the real property from which such payments in lieu of taxes are derived and shall be collected in the same manner as real property taxes, including the assessment of penalties and interest where applicable. The lien of payments in lieu of taxes may be foreclosed in the same manner as the lien of real property taxes. No part of the current equalized assessed valuation of each taxable lot, block, tract, or parcel of property in any such regional economic development project area attributable to any increase above the initial equalized assessed value of each such taxable lot, block, tract, or parcel of real property in such regional economic development project area as certified by the county assessor and as adjusted by the annual tax base adjustment

as detailed in this section shall be used in calculating the general state school aid formula provided for in section 163.031, RSMo, until incremental tax financing for such regional economic development project area expires or is terminated in accordance with the regional economic development district law;

(3) For purposes of this section, levies upon taxable real property in such regional economic development area by taxing districts shall not include the blind pension fund tax levied under the authority of article III, section 38(b) of the Missouri Constitution, the merchants' and manufacturers' inventory replacement tax levied under the authority of article X, subsection 2 of section 6 of the Missouri Constitution, the desegregation sales tax, or the conservation taxes.

4. In each of the twenty-five calendar years following the adoption of a resolution adopting incremental tax financing for a regional economic development project area under this section, unless and until incremental tax financing for such regional economic development project area is terminated in accordance with the regional economic development district law, fifty percent of the economic activity taxes from such regional economic development project area shall be allocated to and paid by the collecting officer of any such economic activity tax to the treasurer of the regional economic development district, who shall deposit such funds in a separate segregated account for economic activity taxes within the special allocation fund.

251.621. PLAN REQUIRED, CONTENTS — FINDINGS REQUIRED. — 1. A regional economic development plan shall set forth in writing a general description of the program to be undertaken to accomplish the regional economic development 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 chairman of the regional economic development district board;

(2) The street address or other description of the location of the development site;

(3) The estimated regional economic development project costs;

(4) The anticipated sources of funds to pay such regional economic development project costs;

(5) Evidence of the commitments to finance such regional economic development project costs;

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

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

(8) The most recent equalized assessed valuation of the property within the regional economic development project area;

(9) An estimate as to the equalized assessed valuation after the regional economic development project area is developed in accordance with a regional economic development plan;

(10) The general land uses to apply in the regional economic development area;

(11) A list of community and economic benefits to result from the regional economic development project;

(12) A list of all development subsidies that any business benefitting from public expenditures in the regional economic development area has previously received for the project, and the name of any other granting body from which such subsidies are sought;

(13) 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 funding under the regional economic development district law is being sought;

(14) A market study for the regional economic development area; and

(15) A certification by the regional economic development district board as to the accuracy of the regional economic development plan.

2. The regional economic development plan may be adopted by a regional economic development district in reliance on findings that a reasonable person would believe:

(1) The regional economic development area has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the implementation of one or more regional economic development projects and the adoption of incremental tax financing;

(2) The estimated dates of the completion of such regional economic development project and retirement of obligations incurred to finance regional economic development project costs which shall not be more than twenty-five years from the adoption of the resolution approving any regional economic development project, provided that no resolution approving a regional economic development project shall be adopted later than fifteen years from the adoption of the resolution approving the regional economic development plan;

(3) The development plan contains a cost-benefit analysis showing the economic impact of the regional economic development plan on any municipality, county, regional economic development district, and school districts that are at least partially within the boundaries of the regional economic development area. The analysis shall show the impact on the economy if the regional economic development projects are not built according to the regional economic development plan under consideration;

(4) The regional economic development plan does not include the initial development or redevelopment of any gambling establishment; and

(5) 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, a pro forma statement analysis demonstrating the amount of assistance required to bring the return into a range deemed attractive to private investors, which amount shall not exceed the estimated reimbursable project costs.

251.624. TERMINATION OF INCREMENTAL TAX FINANCING, WHEN, PROCEDURE. — 1. When all regional economic development project costs and all obligations issued to finance regional economic development project costs have been paid in full, the regional economic development district shall adopt a resolution terminating incremental tax financing for all regional economic development project areas. Immediately upon the adoption of such resolution, all payments in lieu of taxes, all economic activity taxes, and other net new revenues then remaining in the special allocation fund shall be deemed to be surplus funds; thereafter, the rates of the taxing districts shall be extended, and taxes shall be levied, collected, and distributed in the manner applicable in the absence of the adoption of incremental tax financing. Surplus payments in lieu of taxes shall be paid to the county collector who shall immediately thereafter pay such funds to the taxing districts in the regional economic development area selected in the same manner and proportion as the most recent distribution by the collector to the affected taxing districts of real property taxes from real property in the regional economic development area. Surplus economic activity taxes shall be paid to the taxing districts in the regional economic development area in proportion to the then current levy rates of such taxing districts that are attributable to such economic activity taxes. Any other funds remaining in the special allocation fund following the adoption of a resolution terminating incremental tax financing in accordance with this section shall be deposited to the general fund of the municipalities or counties that originally formed the regional economic development district in a pro rata amount determined by the regional economic development district board.

2. Upon the payment of all regional economic development project costs, retirement of obligations, and the distribution of any surplus funds under this section, the regional

economic development district shall adopt a resolution dissolving the special allocation fund and terminating the designation of the regional economic development area as a regional economic development area.

3. Nothing in the regional economic development district law shall be construed as relieving property in such areas from paying a uniform rate of taxes, as required by article X, section 3 of the Missouri Constitution.

251.627. COUNTY CLERK TO ANNUALLY ASCERTAIN AMOUNT OF VALUE OF TAXABLE PROPERTY IN THE DISTRICT. — In each of the twenty-five calendar years following the adoption of a resolution adopting incremental tax financing for a regional economic development project area, unless and until incremental tax financing for such regional economic development project area is terminated by resolution of the regional economic development district board, then, in respect to every taxing district containing such regional economic development project area, the county clerk or any other official required by law to ascertain the amount of the equalized assessed value of all taxable property within such regional economic development project area for the purpose of computing any debt service levies to be extended upon taxable property within such regional economic development project area, shall in every year that incremental tax financing is in effect ascertain the amount of value of taxable property in such regional economic development project area by including in such amount the certified total initial equalized assessed value of all taxable real property in such regional economic development project area in lieu of the equalized assessed value of all taxable real property in such regional economic development project area. For the purpose of measuring the size of payments in lieu of taxes under the regional economic development district law, all tax levies shall then be extended to the current equalized assessed value of all property in the regional economic development project area in the same manner as the tax rate percentage is extended to all other taxable property in the taxing district.

251.630. ISSUANCE OF BONDS, PURPOSE — REFUNDING — INTEREST EXEMPT FROM STATE TAXATION. — 1. A regional economic development district may at any time authorize or issue revenue bonds for the purpose of paying all or any part of the cost of any regional economic development project. Every issue of such bonds shall be payable out of the revenues of the regional economic development district and may be further secured by other property of the regional economic development 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 shall be authorized by resolution of the regional economic development district, and if issued by the regional economic development district, shall bear such date or dates and shall mature at such time or times, but not in excess of twenty-five years, as the resolution shall specify. Such bonds 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 subject to redemption as such resolution may provide notwithstanding the provisions of section 108.170, RSMo. The bonds may be sold at either public or private sale at such interest rates, and at such price or prices as the regional economic development district board shall determine.

2. Any issue of regional economic development district bonds outstanding may be refunded at any time by the regional economic development district by issuing its refunding bonds in such amount as the regional economic development district may deem necessary. Such bonds may not exceed the amount sufficient to refund the principal of the bonds to be refunded together with any unpaid interest thereon and any premiums,

commissions, service fees, and other expenses necessary to be paid in connection with the refunding. Any such refunding may be effected whether the bonds to be refunded then shall have matured or thereafter shall mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds being refunded or by the exchange of the refunding bonds for the bonds being refunded with the consent of the holder or holders of the bonds being refunded. Refunding bonds may be issued regardless of whether the bonds being refunded were issued in connection with the same project or a separate project and regardless of whether the bonds proposed to be refunded shall be payable on the same date or different dates or shall be due serially or otherwise.

3. Bonds issued under this section shall exclusively be the responsibility of the regional economic development district payable solely out of regional economic development district funds and property as provided in the regional economic development district law and shall not constitute a debt or liability of the state of Missouri or any agency or political subdivision of the state. The regional economic development district shall not be obligated to pay such bonds with any funds other than those specifically pledged to repayment of the bonds. Any bonds issued by a regional economic development district shall state on their face that they are not obligations of the state of Missouri or any agency or political subdivision thereof other than the regional economic development district.

4. Bonds issued under this section, the interest thereon, or any proceeds from such bonds shall be exempt from taxation in the state of Missouri.

265.525. CITATION OF LAW — DEFINITIONS — COUNCIL CREATED, MEMBERS, TERMS, MEETINGS, POWERS AND DUTIES — DEPARTMENT AUTHORITY — FEES, RULEMAKING AUTHORITY — VIOLATIONS, PENALTY. — 1. This section shall be known as the "Missouri Rice Certification Act".

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

(1) "Characteristics of commercial impact", characteristics determined by the Rice Advisory Council under subsection 7 of this section that may adversely affect the marketability of rice in the event of commingling with other rice and may include, but are not limited to, those characteristics that cannot be visually identified without the aid of specialized equipment or testing, those characteristics that create a significant economic impact in their removal from commingled rice, and those characteristics whose removal from commingled rice is infeasible;

(2) "Council", the rice advisory council established in this section;

(3) "Department", the department of agriculture;

(4) "Director", the director of the department of agriculture;

(5) "End user", any company or corporation that uses rice as a major ingredient in industrial food processing;

(6) "Handler", any person engaged in this state in the business of marketing rice, including persons engaged in the drying, milling, or storing of rice;

(7) "Person", any individual, partnership, limited liability company, limited liability partnership, corporation, firm, company, or any other entity doing business in Missouri;

(8) "Producer", any person who produces, or causes to be produced, rice;

(9) "Rice", all rough or "paddy" rice or brown rice (Oryza species) produced in or shipped in Missouri, including rice produced for seed. It does not include wild rice (Zinzania aquatic or Zinzania palustris).

3. Except as provided by rules promulgated by the department, it shall be unlawful for any person to introduce, sell, plant, produce, harvest, transport, store, process, or otherwise handle rice identified as having characteristics of commercial impact.

4. There is hereby created within the department of agriculture the "Rice Advisory Council". The council shall be made up of the following ten members:

(1) The director, or his or her designee;

(2) Three members appointed by the director to include:

(a) An individual representing handlers in Missouri;

(b) An individual representing end users;

(c) An individual representing the biotechnology industry who is familiar with rice genetics;

(3) Six members appointed by the director as recommended by the Missouri Rice Research and Merchandising Council to include:

(a) Two producers, neither of whom shall be employed by or serve on the board of any rice mill or rice merchandiser;

(b) Two scientists employed by institutes of higher education in Missouri;

(c) A representative of rice mills operating in Missouri; and

(d) A representative of rice seed dealers.

5. Members of the council shall serve terms of three years in length except that the director shall be a permanent member of the council and the director shall stagger the terms of the initial appointments so that three members serve terms of two years, three members serve terms of three years, and three members serve terms of four years. There is no limit to the number of terms a member may serve. Vacancies shall be filled in the same manner of representation as the original appointments.

6. The rice advisory council shall meet no less than twice annually as determined by the chairperson of the council, who shall be elected by the council at its first meeting and once every calendar year thereafter. Members of the council shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

7. The powers and duties of the rice advisory council shall include, but not be limited to, all of the following:

(1) Identifying rice varieties that have characteristics of commercial impact;

(2) Reviewing the efficacy of terms and conditions of identity preservation programs imposed on the planting, producing, harvesting, transporting, drying, storing, testing, or otherwise handling of rice identified using the most current industry standards and generally accepted scientific principles;

(3) Reviewing each rice variety identified as having characteristics of commercial impact not less often than every two years, or upon receipt of a petition from the purveyor of the rice;

(4) Making recommendations to the director on all matters pertaining to this section, including, but not limited to, enforcement of this section.

8. The department shall have the power to:

(1) Maintain the integrity and prevent the contamination of rice which has not been identified as having characteristics of commercial impact;

(2) Prevent the introduction of disease, weeds, or other pests that would adversely affect rice which has not been identified as having characteristics of commercial impact;

(3) Require that persons selling, offering for sale, or otherwise distributing seed for the production of rice identified as having characteristics of commercial impact, or that persons bringing rice identified as having characteristics of commercial impact into the state for processing, notify the department of the location of planting sites and the dates and procedures for planting, producing, harvesting, transporting, drying, storing, testing, or otherwise handling of rice identified as having characteristics of commercial impact;

(4) Require that persons receiving rice having been identified as having characteristics of commercial impact produced outside the state for processing notify the department of the location of the receipt and the procedures for processing, transporting, drying, storing, testing, or otherwise handling the rice to prevent commercial impact to other rice and the spread of weeds, disease, or other pests;

(5) Enforce restrictions and prohibitions imposed by the department on the selling, planting, producing, harvesting, transporting, drying, storing, testing, processing, or otherwise handling of rice identified as having characteristics of commercial impact; and

(6) Investigate alleged violations of this section, issue notices of violation, provide for an appeals process for persons aggrieved by the provisions of this section, and impose penalties for violation of this section.

9. The department may establish and collect reasonable fees for any sampling and testing of rice that the department determines is necessary to implement the provisions of this section. Any such fees shall be reviewed by the rice advisory council.

10. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

11. The department shall regularly report to the rice advisory council any findings of rice varieties that could potentially have characteristics of commercial impact.

12. If the rice advisory council determines that any rice variety with characteristics of commercial impact is documented as causing unreasonable adverse effects on the environment or public health, the council may issue recommendations to the department. Within sixty days of receiving any such recommendations from the council, the department shall hold a public hearing for the purpose of determining the nature and extent of commercial impact. Within thirty days of holding any such public hearing, the department shall issue a detailed opinion in response to the council recommendations.

13. The penalty for violating a provision of this section shall be no less than ten thousand dollars nor more than one hundred thousand dollars per day per violation.

14. If the department determines a person has violated any provision of this section, the department shall provide written notice to such person informing the person of the violation. The notice shall inform the person of the right to request an appeal. Nothing in this section shall prevent a person from seeking judicial relief in a court of competent jurisdiction.

15. The provisions of this section shall become effective one hundred eighty days from August 28, 2007.

16. The provisions of this section shall not be subject to the provisions of sections 610.010 to 610.200, RSMo.

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

(1) By ordinance introduced in the governing body of the municipality within fourteen to ninety days from the completion of the hearing required in section 99.825, approve redevelopment plans and redevelopment projects, and designate redevelopment project areas pursuant to the notice and hearing requirements of sections 99.800 to 99.865. No redevelopment project shall be approved unless a redevelopment plan has been approved and a redevelopment area has been designated prior to or concurrently with the approval of such redevelopment project and the area selected for the redevelopment project shall include only those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements;

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

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

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

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

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

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

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

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

(10) Incur redevelopment costs and issue obligations;

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

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

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

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

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

(13) If any member of the governing body of the municipality, a member of a commission established pursuant to subsection 2 of this section, or an employee or consultant of the municipality, involved in the planning and preparation of a redevelopment plan, or redevelopment project for a redevelopment area or proposed redevelopment area, owns or controls an interest, direct or indirect, in any property included in any redevelopment area, or proposed redevelopment area, which property is designated to be acquired or improved pursuant to a redevelopment project, he or she shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the

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

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

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

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

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

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

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

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

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

(7) **In a municipality which is in a county under the authority of the East-West Gateway Council of Governments, except any municipality in any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, the municipality shall create a commission in the same manner as the commission for a first class county with a charter form of government having a population of more than nine hundred thousand, such commission shall have twelve members with two such members appointed by the school boards whose districts are included in the county in a manner in which such school boards agree, with**

one such member to represent all other districts levying ad valorem taxes in a manner in which all such districts agree, three such members appointed either by the county executive or county commissioner, and six such members appointed by the cities in the county which have tax increment financing districts in a manner in which the cities shall agree;

(8) When any city, town, or village under the authority of the East-West Gateway Council of Governments desires to implement a tax increment financing project, such city, town, or village shall first obtain the permission of the county tax increment financing commission created in this subsection within which the city, town, or village is located;

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

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

[99.825. ADOPTION OF ORDINANCE FOR REDEVELOPMENT, PUBLIC HEARING REQUIRED — OBJECTION PROCEDURE — HEARING AND NOTICES NOT REQUIRED, WHEN — RESTRICTIONS ON CERTAIN PROJECTS. — 1. Prior to the adoption of an ordinance proposing the designation of a redevelopment area, or approving a redevelopment plan or redevelopment project, the commission 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, plan or project. At the public hearing any interested person or affected taxing district may file with the commission written objections to, or comments on, and may be heard orally in respect to, any issues embodied in the notice. The commission 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, or redevelopment area, provided that each affected taxing district is given written notice of such changes at least seven days prior to the conclusion of the hearing. After the public hearing but prior to the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, changes may be made to the redevelopment plan, redevelopment projects or redevelopment areas without a further hearing, if such changes do not enlarge the exterior boundaries of the redevelopment area or areas, and do not substantially affect the general land uses established in the redevelopment plan or substantially change the nature of the redevelopment projects, 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 area of the proposed redevelopment not less than ten days prior to the adoption of the changes by ordinance. After the adoption of an ordinance approving a redevelopment plan or redevelopment project, or designating a redevelopment area, no ordinance shall be adopted altering the exterior boundaries, affecting the general land uses established pursuant to the redevelopment plan or changing the nature of the redevelopment project without complying with the procedures provided in this section pertaining to the initial approval of a redevelopment plan or redevelopment project and designation of a redevelopment area. Hearings with regard to a redevelopment project, redevelopment area, or redevelopment plan may be held simultaneously.

2. **If, after concluding the hearing required under this section, the commission makes a recommendation under section 99.820 in opposition to a proposed redevelopment plan, redevelopment project, or designation of a redevelopment area, or any amendments thereto, a municipality desiring to approve such project, plan, designation, or amendments shall do so only upon a two-thirds majority vote of the governing body of such municipality.**

3. Tax incremental financing projects within an economic development area shall apply to and fund only the following infrastructure projects: highways, roads, streets, bridges, sewers, traffic control systems and devices, water distribution and supply systems, curbing, sidewalks and any other similar public improvements, but in no case shall it include buildings.**]**

Approved June 26, 2007

HB 754 [HB 754]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Department of Corrections to disburse federal funds according to federal guidelines and state funds as appropriated and directed by the General Assembly

AN ACT to repeal section 217.045, RSMo, and to enact in lieu thereof one new section relating to the department of corrections.

SECTION
A. Enacting clause.
217.045. Federal funds, authority to receive — applications for funds, procedure.

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

SECTION A. ENACTING CLAUSE. — Section 217.045, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 217.045, to read as follows:

217.045. FEDERAL FUNDS, AUTHORITY TO RECEIVE — APPLICATIONS FOR FUNDS, PROCEDURE. — 1. The department shall have the authority to enter into arrangements with the federal government for the receipt **and disbursement** of federal funds **under any applicable federal guidelines**, subject to appropriations, to carry out the purposes of the department and shall submit such plans and reports as may be required.

2. The director shall approve such applications for federal assistance administered through the department as may be considered advisable after consultation with the appropriate division director.

3. The department shall also have the authority to receive and disburse such other funds as may be appropriated and directed by the general assembly.

Approved May 31, 2007

HB 780 [CCS SS SCS HCS HB 780]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the licensure of certain professionals in the Division of Professional Registration within the Department of Insurance, Financial Institutions, and Professional Registration

AN ACT to repeal sections 41.950, 256.465, 317.001, 317.006, 317.011, 317.013, 317.015, 317.018, 324.520, 324.522, 327.011, 327.111, 327.181, 327.201, 327.291, 327.441, 327.633, 331.010, 334.120, 335.016, 335.036, 335.066, 335.068, 335.076, 335.096, 335.097, 335.212, 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.090, 336.140, 336.160, 336.200, 336.220, 336.225, 337.600, 337.603, 337.604, 337.606, 337.609, 337.612, 337.615, 337.618, 337.622, 337.624, 337.627, 337.630, 337.636, 337.639, 337.650, 337.653, 337.659, 337.665, 337.668, 337.674, 337.677, 337.680, 337.686, 337.689, 337.700, 337.715, 337.718, 338.220, 339.100, 339.513, 344.020, 344.030, 344.040, 344.050, 344.060, 344.070, 344.080, 344.105, 345.015, 345.030, 345.045, 345.055, 346.015, 346.030, 346.035, 346.055, 346.060, 346.110, 383.130, 383.133, 620.010, and 621.045, RSMo, and to enact in lieu thereof one hundred sixteen new sections relating to the division of professional registration, with penalty provisions and an effective date for certain sections.

SECTION

A. Enacting clause.
41.950. Members of military forces called to active duty — relieved from certain provisions of law.
192.632. Task force created, members, duties.
256.465. Fund, established — fees to be set by board, limit.
317.001. Definitions.
317.006. Director to supervise professional boxing, sparring, wrestling and karate contests — powers — duties — fees, how set — telecasts — athletic fund.
317.011. Athletic fund, created, source of funds — director only to license certain contests, exceptions — law not applicable to amateur matches.
317.013. Mandatory medical suspensions, determination — medically retired persons.
317.015. Complaints against licensees, filed with administrative hearing commission — refusal to issue license, notification, appeal — sanctions on license permitted, when.
317.018. Combative fighting prohibited — promotion or participation in combative fighting, felony — medical personnel — exceptions.
317.019. Bout contracts required, when — contents, changes — payment of event official's fees.
324.520. Definitions — tattooing, branding, body piercing, prohibited, when, penalty.
324.522. Licensing required, when — rulemaking authority.

324.523. Complaint may be filed with administrative hearing commission, when, procedure — discipline authorized, when.
324.1100. Definitions.
324.1102. Board created, members, qualifications, terms — fund created, use of moneys.
324.1104. Prohibited acts.
324.1106. Persons deemed not to be engaging in private investigation business.
324.1108. Application for licensure, contents — qualifications.
324.1110. Examination is required — background investigation required — waiver of testing, showing required.
324.1112. Denial of a request for licensure, when.
324.1114. Fee required — license for individuals only, agency license must be applied for seperately.
324.1116. Agency hiring criteria.
324.1118. Prohibited acts.
324.1120. Supervision of agency employees required, when.
324.1122. Continuing education requirements.
324.1124. Form of license, contents — posting requirements.
324.1126. Expiration of license, when — renewal — licensee responsible for good conduct of employees.
324.1128. Information regarding criminal offenses, licensee may divulge, when, exceptions — prohibited acts.
324.1130. Records to be maintained — required filings.
324.1132. Advertising requirements.
324.1134. Licensure sanctions permitted, procedure — complaint may be filed with administrative hearing commission — disciplinary action authorized, when.
324.1136. Record keeping requirements — investigatory powers of the board.
324.1138. Rulemaking authority.
324.1140. Board to certify persons qualified to train private investigators, qualifications — application procedure — certificate granted, when — expiration of certificate.
324.1142. Falsification of required information, penalties.
324.1144. Reciprocity.
324.1146. Licensure of law enforcement officers, qualifications.
324.1148. Violations, penalty.
327.011. Definitions.
327.076. Licensure required, penalty for violation — complaint procedure.
327.077. Civil penalties may be imposed, when — amount, limit, determination of — settlement requirements.
327.181. Practice as professional engineer defined — use of titles, restrictions.
327.441. Denial, revocation, or suspension of license or certificate, grounds for.
331.010. Practice of chiropractic, definition.
334.120. Board created — members, appointment, qualifications, terms, compensation.
335.016. Definitions.
335.036. Duties of board — fees set, how — fund, source, use, funds transferred from, when — rulemaking.
335.066. Denial, revocation, or suspension of license, grounds for, civil immunity for providing information — complaint procedures.
335.067. Impaired nurse program may be established by board — contracts — immunity from liability, when — confidentiality of information.
335.068. Complaints to be sealed records, when.
335.076. Titles, R.N.,L.P.N., and APRN who may use.
335.096. Penalty for violation.
335.097. Board of nursing, powers, enforcement.
335.212. Definitions.
336.010. Defining practice of optometry — other definitions.
336.020. Unlawful to practice optometry without license.
336.030. Persons qualified to receive certificate of registration.
336.040. Applications, form, contents, fees.
336.050. Examinations to be held — to include what.
336.060. Licenses to be issued, when.
336.070. License to be displayed.
336.080. Renewal of license — requirements.
336.140. Board meetings — compensation of board members — fund created, use, transferred to general revenue, when.
336.160. Board may promulgate rules and employ personnel — fees, amount, how set.
336.220. Pharmaceuticals, certification for administering required — referral to physician required, when — standard of care — rulemaking authority.
336.225. Advertising requirements.
337.600. Definitions.
337.603. License required — exemptions from licensure.
337.604. Title of social worker, requirements to use title.
337.612. Applications, contents, fee — fund established — renewal, fee — lost certificate, how replaced.
337.615. Education, experience requirements — reciprocity — licenses issued, when.

337.618. License expiration, renewal, fees, continuing education requirements.
337.622. State committee for social workers — membership, removal and vacancies.
337.627. Rules and regulations, procedure.
337.630. Grounds for refusal, revocation or suspension of license — civil immunity, when — procedure upon filing complaint.
337.636. Privileged communications, when.
337.643. Licensure required for use of title — practice authorized.
337.644. Application, contents — reciprocity — issuance of license, when.
337.645. Application information required — issuance of license, when.
337.646. License required for use of title.
337.653. Baccalaureate social workers, license required, permitted activities.
337.665. Information required to be furnished committee — reciprocity, when — certificate to practice independently issued, when.
337.689. Licensees may be compelled to testify.
337.700. Definitions.
337.715. Qualifications for licensure, exceptions.
337.718. License expiration, renewal fee — temporary permits.
338.220. Operation of pharmacy without permit or license unlawful — application for permit, classifications, fee — duration of permit.
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.
339.200. Prohibited acts — investigation may be initiated, when, procedure.
339.205. Civil penalty may be imposed, when — amount, limit, factors — settlement procedures.
339.513. Applications for examinations, original certification, licensure and renewals, requirements, contents, fees, how set — fund established — signed compliance pledge, required.
344.030. License, qualifications, fee, examination, term — reciprocity — emergency license.
344.040. License renewal, application for, fee — late renewal, effect — additional disciplinary action authorized, when.
344.050. Suspension — revocation — probation — refusal to issue or renew license — grounds — procedure — right of review by administrative hearing commission.
344.060. Board, membership, qualifications, terms, removed how, hearing.
344.070. Board officers, how selected — duties and powers of board — rules and regulations, procedure.
344.080. Compensation of board members, exception.
344.105. Retired licenses permitted, when, procedure.
344.108. Inactive status of license permitted, when — reactivation, procedure.
345.015. Definitions.
345.030. Duties of board.
345.033. Purchase agreement required, when, contents.
345.045. Board fund, collection and disposition — transfers authorized.
345.055. Fees, amount, how set.
346.015. License required — exception — penalty for violation.
346.030. Inapplicability of law, when.
346.035. Exempt profession.
346.055. Requirements for license by examination.
346.060. Examination, written and practical required.
346.110. Prohibited acts.
383.130. Definitions.
383.133. Reports by hospitals, ambulatory surgical centers and licensing authorities, when, contents, limited use, penalty.
407.309. Advertising restrictions — definitions — attorney general to enforce, when — civil penalty authorized.
620.010. Department of economic development created — divisions — agencies — boards and commissions — personnel — powers and duties — professional registration fee fund established — rules, procedure.
621.045. Commission to conduct hearings, make determinations — boards included — settlement agreements.
327.111. Penalty for unauthorized practice.
327.201. Penalty for unauthorized practice.
327.291. Penalty for unauthorized practice.
327.633. Violations, penalty.
336.090. Qualifications for registration of applicant licensed in another state — fees required.
336.200. Advertising to include names of registered optometrists — penalty.
337.606. Academic requirements, exemptions.
337.609. Employment of licensed clinical social workers not required, when.
337.624. Third-party reimbursements by insurance not mandated, construction of statutes.
337.639. Privileged communications, exceptions.
337.650. Definitions.
337.659. No employer required to employ licensed social workers.
337.668. Term of license — renewal.

337.674. No mandatory third-party reimbursement for services.
337.677. Rulemaking authority.
337.680. Refusal to issue or renew license, when — complaint procedure.
337.686. Confidentiality requirements, exceptions.
B. Effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 41.950, 256.465, 317.001, 317.006, 317.011, 317.013, 317.015, 317.018, 324.520, 324.522, 327.011, 327.111, 327.181, 327.201, 327.291, 327.441, 327.633, 331.010, 334.120, 335.016, 335.036, 335.066, 335.068, 335.076, 335.096, 335.097, 335.212, 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.090, 336.140, 336.160, 336.200, 336.220, 336.225, 337.600, 337.603, 337.604, 337.606, 337.609, 337.612, 337.615, 337.618, 337.622, 337.624, 337.627, 337.630, 337.636, 337.639, 337.650, 337.653, 337.659, 337.665, 337.668, 337.674, 337.677, 337.680, 337.686, 337.689, 337.700, 337.715, 337.718, 338.220, 339.100, 339.513, 344.020, 344.030, 344.040, 344.050, 344.060, 344.070, 344.080, 344.105, 345.015, 345.030, 345.045, 345.055, 346.015, 346.030, 346.035, 346.055, 346.060, 346.110, 383.130, 383.133, 620.010, and 621.045, RSMo, are repealed and one hundred sixteen new sections enacted in lieu thereof, to be known as sections 41.950, 192.632, 256.465, 317.001, 317.006, 317.011, 317.013, 317.015, 317.018, 317.019, 324.520, 324.522, 324.523, 324.1100, 324.1102, 324.1104, 324.1106, 324.1108, 324.1110, 324.1112, 324.1114, 324.1116, 324.1118, 324.1120, 324.1122, 324.1124, 324.1126, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136, 324.1138, 324.1140, 324.1142, 324.1144, 324.1146, 324.1148, 327.011, 327.076, 327.077, 327.181, 327.441, 331.010, 334.120, 335.016, 335.036, 335.066, 335.067, 335.068, 335.076, 335.096, 335.097, 335.212, 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.140, 336.160, 336.220, 336.225, 337.600, 337.603, 337.604, 337.612, 337.615, 337.618, 337.622, 337.627, 337.630, 337.636, 337.643, 337.644, 337.645, 337.646, 337.653, 337.665, 337.689, 337.700, 337.715, 337.718, 338.220, 339.100, 339.200, 339.205, 339.513, 344.020, 344.030, 344.040, 344.050, 344.060, 344.070, 344.080, 344.105, 344.108, 345.015, 345.030, 345.033, 345.045, 345.055, 346.015, 346.030, 346.035, 346.055, 346.060, 346.110, 383.130, 383.133, 407.309, 620.010, and 621.045, to read as follows:

41.950. MEMBERS OF MILITARY FORCES CALLED TO ACTIVE DUTY — RELIEVED FROM CERTAIN PROVISIONS OF LAW. — 1. Any resident of this state who is a member of the national guard or of any reserve component of the armed forces of the United States or who is a member of the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, the United States Coast Guard or an officer of the United States Public Health Service detailed by proper authority for duty with any branch of the United States armed forces described in this section and who is engaged in the performance of active duty in the military service of the United States in a military conflict in which reserve components have been called to active duty under the authority of 10 U.S.C. 672(d) or 10 U.S.C. 673b or any such subsequent call or order by the President or Congress for any period of thirty days or more shall be relieved from certain provisions of state law, as follows:

(1) No person performing such military service who owns a motor vehicle shall be required to maintain financial responsibility on such motor vehicle as required under section 303.025, RSMo, until such time as that person completes such military service, unless any person shall be operating such motor vehicle while the vehicle owner is performing such military service;

(2) No person failing to renew his driver's license while performing such military service shall be required to take a complete examination as required under section 302.173, RSMo, when renewing his license within sixty days after completing such military service;

(3) Any motor vehicle registration required under chapter 301, RSMo, that expires for any person performing such military service may be renewed by such person within sixty days of

completing such military service without being required to pay a delinquent registration fee; however, such motor vehicle shall not be operated while the person is performing such military service unless the motor vehicle registration is renewed;

(4) Any person enrolled by the supreme court of Missouri or licensed, registered or certified under chapter 168, 256, 289, 317, **324,** 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 375, 640 or 644, RSMo, **and interpreters licensed under sections 209.319 to 209.339, RSMo,** whose license, registration or certification expires while performing such military service, may renew such license, registration or certification within sixty days of completing such military service without penalty;

(5) In the case of annual reports, franchise tax reports or other reports required to be filed with the office of secretary of state, where the filing of such report would be delayed because of a person performing such military service, such reports shall be filed without penalty within one hundred twenty days of the completion of such military service;

(6) No person performing such military service who is subject to a criminal summons for a traffic violation shall be subject to nonappearance sanctions for such violation until after one hundred eighty days after the completion of such military service;

(7) No person performing such military service who is required under state law to file financial disclosure reports shall be required to file such reports while performing such military service; however, such reports covering that period of time that such military service is performed shall be filed within one hundred eighty days after the completion of such military service;

(8) Any person with an indebtedness, liability or obligation for state income tax or property tax on personal or real property who is performing such military service or a spouse of such person filing a combined return or owning property jointly shall be granted an extension to file any papers or to pay any obligation until one hundred eighty days after the completion of such military service or continuous hospitalization as a result of such military service notwithstanding the provisions of section 143.991, RSMo, to the contrary and shall be allowed to pay such tax without penalty or interest if paid within the one-hundred-eighty-day period;

(9) Notwithstanding other provisions of the law to the contrary, for the purposes of this section, interest shall be allowed and paid on any overpayment of tax imposed by sections 143.011 to 143.998, RSMo, at the rate of six percent per annum from the original due date of the return or the date the tax was paid, whichever is later;

(10) No state agency, board, commission or administrative tribunal shall take any administrative action against any person performing such military service for that person's failure to take any required action or meet any required obligation not already provided for in subdivisions (1) to (8) of this subsection until one hundred eighty days after the completion of such military service, except that any agency, board, commission or administrative tribunal affected by this subdivision may, in its discretion, extend the time required to take such action or meet such obligation beyond the one-hundred-eighty-day period;

(11) Any disciplinary or administrative action or proceeding before any state agency, board, commission or administrative tribunal where the person performing such military service is a necessary party, which occurs during such period of military service, shall be stayed by the administrative entity before which it is pending until sixty days after the end of such military service.

2. Upon completing such military service, the person shall provide the appropriate agency, board, commission or administrative tribunal an official order from the appropriate military authority as evidence of such military service.

3. The provisions of this section shall apply to any individual defined in subsection 1 of this section who performs such military service on or after August 2, 1990.

192.632. TASK FORCE CREATED, MEMBERS, DUTIES. — 1. There is hereby created a "Chronic Kidney Disease Task Force". Unless otherwise stated, members shall be

appointed by the director of the department of health and senior services and shall include, but not be limited to, the following members:

(1) Two physicians appointed from lists submitted by the Missouri State Medical Association;

(2) Two nephrologists;

(3) Two family physicians;

(4) Two pathologists;

(5) One member who represents owners or operators of clinical laboratories in the state;

(6) One member who represents a private renal care provider;

(7) One member who has a chronic kidney disease;

(8) One member who represents the state affiliate of the National Kidney Foundation;

(9) One member who represents the Missouri Kidney Program;

(10) Two members of the house of representatives appointed by the speaker of the house of representatives;

(11) Two members of the senate appointed by the president pro tempore of the senate;

(12) Additional members may be chosen to represent public health clinics, community health centers, and private health insurers.

2. A chairperson and a vice-chairperson shall be elected by the members of the task force.

3. The chronic kidney task force shall:

(1) Develop a plan to educate the public and health care professionals about the advantages and methods of early screening, diagnosis, and treatment of chronic kidney disease and its complications based on kidney disease outcomes, quality initiative clinical practice guidelines for chronic kidney disease, or other medically recognized clinical practice guidelines:

(2) Make recommendations on the implementation of a cost-effective plan for early screening, diagnosis, and treatment of chronic kidney disease for the state's population;

(3) Identify barriers to adoption of best practices and potential public policy options to address such barriers;

(4) Submit a report of its findings and recommendations to the general assembly within one year of its first meeting.

4. The department of health and senior services shall provide all necessary staff, research, and meeting facilities for the chronic kidney disease task force.

256.465. FUND, ESTABLISHED — FEES TO BE SET BY BOARD, LIMIT. — 1. There is hereby created in the state treasury "The Board of Geologist Registration Fund".

2. The board shall establish, by rule, fees to be charged for applications, examinations, certification and certification renewal. The fees shall be set at an amount which shall not be more than that required to administer sections 256.450 to 256.483. **[**Any balance in the fund at the end of the biennium shall remain in the fund and shall not be subject to the provisions of section 33.080, RSMo.**]** **The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.**

317.001. DEFINITIONS. — As used in sections 317.001 to 317.021, the following words and terms mean:

(1) **"Amateur", a person who competes in a boxing, wrestling, kickboxing, or full-contact karate event who has not competed as a contestant for valuable consideration in any event in which similar boxing, wrestling, kickboxing, or full-contact karate skills were used or allowed;**

(2) "Bout", one match involving **[**either**]** professional boxing, sparring, professional wrestling, professional kickboxing**,** or professional full-contact karate**, including professional mixed martial arts**;

(3) "Boxing", the sport of attack and defense where contestants are allowed to only use the fist to attack or strike in competition;

[(2)**] (4)** "Combative fighting", **[**also known as "toughman fighting", "toughwoman fighting", "badman fighting", "ultimate fighting", "U.F.C." and "extreme fighting", any boxing or wrestling match, contest or exhibition, between two or more contestants, with or without protective headgear, who use their hands, with or without gloves, or their feet, or both, and who compete for a financial prize or any item of pecuniary value, and which match, contest, tournament championship or exhibition is not recognized by and not sanctioned by any officially recognized state, regional or national boxing or athletic sanctioning authority, or any promoter duly licensed by the division of professional registration**] a bout or contest, with or without gloves or protective headgear, whereby any part of the contestant's body may be used as a weapon or any other means of fighting may be used with the specific purpose of intentionally injuring the other contestants in such a manner that they may not defend themselves and in which there is no referee**;

[(3)**] (5)** "Contest", a bout or a group of bouts involving licensed contestants competing in professional boxing, sparring, professional wrestling, professional kickboxing**,** or professional full-contact karate;

[(4)**] (6)** "Contestant", a person who competes in any **[**activity covered by sections 317.001 to 317.021**] boxing, wrestling, kickboxing, or full-contact karate event**;

[(5)**] (7)** "Division", the division of professional registration;

[(6)**] (8)** "Director", the director of the division of professional registration;

(9) "Exhibition", a boxing, wrestling, kickboxing, or full-contact karate engagement in which persons are participating to show or display their boxing, wrestling, kickboxing, or full-contact karate skill and in which no decision is rendered;

[(7)**] (10)** "Fund", the athletic fund established pursuant to sections 317.001 to 317.021;

[(8)**] (11)** "Mandatory count of eight", a required count of eight that is given by a referee to a **boxing** contestant who has been knocked down;

[(9)**] (12)** "Noncompetitive boxing", boxing or sparring where a decision is not rendered;

[(10)**] (13) "Full-contact karate", any form of full-contact martial arts including, but not limited to, full-contact kungfu, full-contact tae kwon do, or any form of martial arts, mixed martial arts, combat or self-defense conducted on a full-contact basis in a match where contestants are allowed to deliver blows or strikes;**

(14) "Kickboxing", any match in which contestants are allowed to use any form of boxing and are also allowed to use any part of the fist, foot, or leg, with or without shin guards or protective gear, or any combination thereof to deliver strikes above the waist and which does not constitute mixed martial arts as defined by this section;

(15) "Mixed martial arts", any match in which any form of martial arts or self-defense is conducted on a full-contact basis and where other combative techniques or tactics are allowed in competition including, but not limited to, kicking, striking, chokeholds, boxing, wrestling, kickboxing, grappling, or joint manipulation. Professional mixed martial arts is a form of full-contact karate;

(16) "Office", the division of professional registration, office of athletics;

[(11) "Professional boxing", the sport of attack and defense which uses the fist and where contestants compete for valuable consideration;

(12) "Professional full-contact karate", any form of full-contact martial arts including but not limited to full-contact kungfu, full-contact taw kwon-do, or any form of martial arts or self-defense conducted on a full-contact basis in a bout or contest where weapons are not used and where contestants compete for valuable consideration. Such contests take place in a rope-enclosed ring and are fought in timed rounds;

(13) "Professional kickboxing", any form of boxing in which blows are delivered with any part of the arm below the shoulder, including the hand, and any part of the leg below the hip, including the foot, and where contestants compete for valuable consideration. Such contests take place in a rope-enclosed ring and are fought in timed rounds;

(14) "Professional wrestling", any performance of wrestling skills and techniques by two or more professional wrestlers, to which any admission is charged. Participating wrestlers may not be required to use their best efforts in order to win, the winner may have been selected before the performance commences and contestants compete for valuable consideration. Such contests take place in a rope-enclosed ring and are fought in timed rounds;

(15)**] (17) "Professional", a wrestling, boxing, kickboxing, or full-contact karate bout or contest where the participants compete for any valuable consideration or a person who competes in any wrestling, boxing, kickboxing, or full-contact karate bout or contest for any such consideration;**

(18) "Sparring", **[**boxing for practice or as an exhibition**] any boxing, wrestling, kickboxing, or full-contact karate conducted for practice and for which admission or other similar consideration, in any form, is charged to any member of the public**;

[(16)**] (19)** "Standing mandatory eight count", the count of eight that is given at the discretion of a referee to a **boxing** contestant who has been dazed by a blow and is unable to defend himself or herself. The standing mandatory eight count may be waived in a bout only with special permission of the office**;**

(20) "Wrestling", any performance of wrestling skills and techniques by two or more individuals. Participating wrestlers may perform without being required to use their best efforts in order to win and the winner may have been selected before the performance commences.

317.006. DIRECTOR TO SUPERVISE PROFESSIONAL BOXING, SPARRING, WRESTLING AND KARATE CONTESTS — POWERS — DUTIES — FEES, HOW SET — TELECASTS — ATHLETIC FUND. — 1. The division **[**of professional registration**]** shall have general charge and supervision of all professional boxing, sparring, professional wrestling, professional kickboxing and professional full-contact karate contests held in the state of Missouri, and it shall have the power, and it shall be its duty:

(1) To make and publish rules governing in every particular professional boxing, sparring, professional wrestling, professional kickboxing and professional full-contact karate contests;

(2) **To make and publish rules governing the approval of amateur sanctioning bodies;**

(3) To accept applications for and issue licenses to contestants in professional boxing, sparring, professional wrestling, professional kickboxing and professional full-contact karate contests held in the state of Missouri, and referees, judges, matchmakers, managers, promoters, seconds, announcers, timekeepers and physicians involved in professional boxing, sparring, professional wrestling, professional kickboxing and professional full-contact karate contests held in the state of Missouri, as authorized herein. Such licenses shall be issued in accordance with rules duly adopted by the division;

[(3)**] (4)** To charge fees to be determined by the director and established by rule for every license issued and to assess a tax of five percent of the gross receipts of any person, organization, corporation, partnership, limited liability company, or association holding a promoter's license and permit under sections 317.001 to 317.021, derived from admission charges connected with

or as an incident to the holding of any professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contest in **[**this state**]** **the state of Missouri**. Such funds shall be paid to the division of professional registration which shall pay said funds into the **Missouri** state treasury to be set apart into a fund to be known as the "Athletic Fund" which is hereby established;

[(4)**]** **(5)** To assess a tax of five percent of the gross receipts of any person, organization, corporation, partnership, limited liability company or association holding a promoter's license **[**and permit**]** under sections 317.001 to 317.021, derived from the sale, lease or other exploitation in this state of broadcasting, television, **pay-per-view,** closed-circuit telecast, and motion picture rights for any professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contest. Such funds shall be paid to the division **[**of professional registration**]** which shall pay said funds into the **Missouri** state treasury to be set apart into a fund to be known as the "Athletic Fund";

[(5) To assess a tax of twenty-five percent of the gross receipts of any person, organization, corporation, partnership, limited liability company or association derived from the sale, lease or other exploitation in this state of broadcasting, television, closed-circuit telecast, and motion picture rights for any combative fighting contest. Such funds shall be paid to the division of professional registration, which shall pay said funds into the state treasury to be set apart into a fund to be known as the athletic fund;**]**

(6) Each cable television system operator whose pay-per-view **or closed-circuit** facilities are utilized to telecast a bout or contest shall, within thirty calendar days following the date of the telecast, file a report with the office stating the number of orders sold and the price per order.

2. All fees established pursuant to sections 317.001 to 317.021 shall be determined by the director by rule in such amount as to produce sufficient revenue to fund the necessary expenses and operating costs incurred in the administration of the provisions of sections 317.001 to 317.021. All expenses shall be paid as otherwise provided by law.

317.011. ATHLETIC FUND, CREATED, SOURCE OF FUNDS — DIRECTOR ONLY TO LICENSE CERTAIN CONTESTS, EXCEPTIONS — LAW NOT APPLICABLE TO AMATEUR MATCHES. — 1. The division **[**of professional registration**]** shall have the power, and it shall be its duty, to accept application for and issue permits to hold professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contests in the state of Missouri, and to charge a fee for the issuance of same in an amount established by rule; such funds to be paid to the division **[**of professional registration**]** which shall pay such funds into the **Missouri** state treasury to be set apart into the athletic fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the fund for the preceding fiscal year or, if the division requires by rule renewal less frequently than yearly then three times the appropriation from the fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the fund for the preceding fiscal year.

3. The division **[**of professional registration**]** shall not grant any permit to hold professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contests in the state of Missouri except:

(1) Where such professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contest is to be held under the auspices of a promoter duly licensed by the division;

[(2) Where such contest shall be of not more than fifteen rounds of three minutes each duration per bout;**]** and

[(3)**]** **(2)** Where a fee has been paid for such permit, in an amount established by rule.

4. In such contests a decision shall be rendered by three judges licensed by the division.

5. Specifically exempted from the provisions of this chapter are contests or exhibitions for amateur boxing, amateur kickboxing, amateur wrestling and amateur full-contact karate. However, all amateur boxing, amateur kickboxing, amateur wrestling and amateur full-contact karate must be sanctioned by a nationally recognized amateur sanctioning body approved by the office.

317.013. MANDATORY MEDICAL SUSPENSIONS, DETERMINATION — MEDICALLY RETIRED PERSONS. — 1. In order to protect the health and welfare of the contestants, there shall be a mandatory medical suspension of any contestant, not to exceed one hundred **[**twenty**]** **eighty** days, who loses consciousness or who has been injured as a result of blows received to the head or body during a **[**boxing bout or semiprofessional elimination contest**]** **professional boxing, professional wrestling, professional kickboxing, or professional full-contact karate contest**. The determination of consciousness is to be made only by a physician licensed by the board of healing arts and the division. Medical suspensions issued in accordance with this section shall not be reviewable by any tribunal.

2. No license shall be issued to any person who has been injured in such a manner that they may not continue **to participate in** boxing**, wrestling, kickboxing, or full-contact karate contests** in the future. Such a person shall be deemed medically retired. No person with a status of medically retired shall compete in any events governed by this chapter. Medical retirements issued in accordance with this section shall not be reviewable by any tribunal.

317.015. COMPLAINTS AGAINST LICENSEES, FILED WITH ADMINISTRATIVE HEARING COMMISSION — REFUSAL TO ISSUE LICENSE, NOTIFICATION, APPEAL — SANCTIONS ON LICENSE PERMITTED, WHEN. — 1. Any person wishing to make a complaint against a licensee under sections 317.001 to 317.014 shall file the written complaint with the division setting forth supporting details. If the division determines that the charges warrant a hearing to ascertain whether the licensee shall be disciplined, it shall file a complaint with the administrative hearing commission as provided in chapter 621, RSMo. Any person holding more than one license issued by the division and disciplined under one license will automatically be disciplined under all licenses.

2. (1) The division may refuse to issue any permit or license pursuant to this chapter for one or any combination of reasons stated in paragraphs (a) through (m) of subdivision (2) of this subsection. The division shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of their rights to file a complaint or an appeal with the administrative hearing commission as provided in chapter 621, RSMo.

(2) The division may file a complaint with the administrative hearing commission, as provided in chapter 621, RSMo, against any holder of any permit or license issued pursuant to this chapter, or against any person who has failed to renew or has surrendered their permit or license, for any one or more of the following reasons:

(a) Use of an alcoholic beverage or any controlled substance, as defined in chapter 195, RSMo, before or during a bout;

(b) The person has been found guilty or has entered a plea of guilty or nolo contendere in a criminal prosecution under any state or federal law 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 a sentence is imposed;

(c) Use of fraud, deception, misrepresentation or bribery in securing any permit or license issued pursuant to this chapter;

(d) Providing false information on applications or medical forms;

(e) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performing of the functions or duties of any profession licensed or regulated by this chapter;

(f) Violating or enabling any person to violate any provision of this chapter or any rule adopted pursuant to this chapter;

(g) Impersonating any permit or license holder or allowing any person to use their permit or license;

(h) Contestants failing to put forth their best effort during a bout;

(i) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter and issued by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(j) A person adjudged mentally incompetent by a court of competent jurisdiction;

(k) 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;

(l) Use of foul or abusive language or mannerisms or threats of physical harm by any person associated with any bout or contest licensed pursuant to this chapter; or

(m) Issuance of a permit or license based upon a mistake of fact.

(3) After the complaint is filed, the proceeding shall be conducted in accordance with the provisions of chapter 621, RSMo. If the administrative hearing commission finds that a person has violated one or more of the grounds as provided in paragraphs (a) through (m) of subdivision (2) of this subsection, the division may censure or place the person named in the compliant on probation on appropriate terms and conditions for a period not to exceed five years, may suspend the person's license for a period not to exceed three years, or may revoke the person's license.

3. Upon a finding that the grounds provided in subsection 2 of this section for disciplinary action are met, the office may, singly or in combination, censure or place on probation on such terms and conditions as the office deems appropriate for a period not to exceed five years, or may suspend for a period not to exceed three years or revoke the certificate, license, or permit. In any order of revocation, the office may provide that the person shall not apply for a new license for a maximum of three years and one day following the date of the order of revocation. All stay orders shall toll the disciplinary time periods allotted herein. In lieu of or in addition to any remedy specifically provided in subsection 1 of this section, the office may require of a licensee:

(1) Satisfactory completion of medical testing and/or rehabilitation programs as the office may specify; and/or

(2) A review conducted as the office may specify and satisfactory completion of medical testing and/or rehabilitation programs as the office may specify.

317.018. COMBATIVE FIGHTING PROHIBITED — PROMOTION OR PARTICIPATION IN COMBATIVE FIGHTING, FELONY — MEDICAL PERSONNEL — EXCEPTIONS. — 1. Combative fighting is prohibited in the state of Missouri.

2. Anyone who promotes or participates in combative fighting, or anyone who serves as an agent, principal partner, publicist, vendor, producer, referee, or contractor of or for combative fighting is guilty of a class D felony.

3. Any medical personnel who administers to, treats or assists any participants of combative fighting shall not be subject to the provisions of this section.

[4. Nothing in section 317.001 or this section shall be construed to give authority to the Missouri state athletic commission to regulate boxing, sparring, wrestling or contact karate conducted by entities which are not regulated on July 10, 1996, including but not limited to events conducted by the:

(1) Military;

(2) Private schools;

(3) Church schools;

(4) Home schools;

(5) Martial arts academies;

(6) Private gyms;

(7) YWCAs and YMCAs;
(8) Elementary and secondary schools;
(9) College and university inter- and intra-mural;
(10) Fraternal organizations;
(11) Camps, conducted by church or not for profit organizations;
(12) Olympic committees; or
(13) Correctional facilities.**]**

5. Nothing in section 317.001 or this section is intended to regulate, or interfere with or make illegal, traditional, sanctioned **amateur or scholastic** boxing, **[**including professional,**]** amateur**[**,**]** **or** scholastic**[**, championship boxing, amateur**]** wrestling **[**or scholastic wrestling**]** **amateur or scholastic kickboxing, or amateur or scholastic full-contact karate or amateur or scholastic mixed martial arts**.

317.019. BOUT CONTRACTS REQUIRED, WHEN — CONTENTS, CHANGES — PAYMENT OF EVENT OFFICIAL'S FEES. — 1. The promoter of a professional boxing, professional kickboxing, and professional full-contact karate contest shall sign written bout contracts with each professional contestant. Original bout contracts shall be filed with the division prior to the event as required by the rules of the office. The bout contract shall be on a form supplied by the division and contain at least the following:

(1) The weight required of the contestant at weigh-in;
(2) The amount of the purse to be paid for the contest;
(3) The date and location of the contest;
(4) The glove size allotted for each contestant;
(5) Any other payment or consideration provided to the contestant;
(6) List of all fees, charges, and expenses including training expenses that will be assessed to the contestant or deducted from the contestant's purse;
(7) Any advances paid to the contestant before the bout;
(8) The amount of any compensation or consideration that a promoter has contracted to receive in connection with the bout or contest;
(9) The signature of the promoter and contestant;
(10) The date signed by both the promoter and the contestant; and
(11) Any information required by the office.

2. If the bout contract between a contestant and promoter is changed, the promoter shall provide the division with the amended contract containing all contract changes at least two hours prior to the event's scheduled start time. The amended contract shall comply with all requirements for original bout contracts and shall contain the signature of the promoter and contestant.

3. A promoter of an event shall not be a manager for a contestant who is contracted for ten rounds or more at the event.

4. The promoter of an event shall provide payments for the event official's fees to the office prior to the start of the event. The form of payment shall be at the discretion of the office provided that payments remitted by check or money order shall be made payable directly to the applicable official.

324.520. DEFINITIONS — TATTOOING, BRANDING, BODY PIERCING, PROHIBITED, WHEN, PENALTY. — 1. As used in sections 324.520 to 324.524, the following terms mean:

(1) "Body piercing", the perforation of human tissue other than an ear for a nonmedical purpose;

(2) "Branding", a permanent mark made on human tissue by burning with a hot iron or other instrument;

(3) "Controlled substance", any substance defined in section 195.010, RSMo;

(4) "Minor", a person under the age of eighteen;

(5) "Tattoo", one or more of the following:

(a) An indelible mark made on the body of another person by the insertion of a pigment under the skin; or

(b) An indelible design made on the body of another person by production of scars other than by branding.

2. No person shall knowingly tattoo, brand or perform body piercing on a minor unless such person obtains the prior written informed consent of the minor's parent or legal guardian. The minor's parent or legal guardian shall execute the written informed consent required pursuant to this subsection in the presence of the person performing the tattooing, branding or body piercing on the minor, or in the presence of an employee or agent of such person. Any person who fraudulently misrepresents himself or herself as a parent is guilty of a class B misdemeanor.

3. A person shall not tattoo, brand or perform body piercing on another person if the other person is under the influence of intoxicating liquor or a controlled substance.

4. A person who violates **[**this section**]** **any provisions of sections 324.520 to 324.526** is guilty of a misdemeanor and shall be fined not more than five hundred dollars. If there is a subsequent violation **[**of this section**]** within one year of the initial violation, such person shall be fined not less than five hundred dollars or more than one thousand dollars.

5. No person under the age of eighteen shall tattoo, brand or perform body piercing on another person.

324.522. LICENSING REQUIRED, WHEN — RULEMAKING AUTHORITY. — 1. No practitioner of tattooing, body piercing or branding shall practice and no establishment in which tattoos, body piercing or brandings are applied shall be operated without a license issued by the director of the division of professional registration. The license fee for each practitioner and each establishment shall be established by rule.

2. The director of the division of professional registration shall promulgate rules and regulations relative to the hygienic practice of tattooing, body piercing and branding, **[**and**]** **the** sanitary operations of tattoo, body piercing and branding establishments**, and the educational and training requirements for applicants applying to receive and practitioners desiring to maintain a license to practice any profession that is licensed or regulated under sections 324.520 to 324.526**. Such rules and regulations shall include:

(1) Standards of hygiene to be met and maintained by establishments and practitioners in order to receive and maintain a license for the practice of tattooing, body piercing and branding;

(2) Procedures to be used to grant, revoke or reinstate a license;

(3) Inspection of tattoo, body piercing and branding establishments; and

(4) Any other matter necessary to the administration of this section.

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 sections 324.520 to **[**324.524**]** **324.526** 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.

324.523. COMPLAINT MAY BE FILED WITH ADMINISTRATIVE HEARING COMMISSION, WHEN, PROCEDURE — DISCIPLINE AUTHORIZED, WHEN. — 1. The division may refuse to issue or 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 under sections 324.520 to 324.526, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or any combination of the following causes:

(1) Use or illegal possession of any controlled substance, as defined in chapter 195, RSMo, or use of any alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession that is licensed or regulated under sections 324.520 to 324.526;

(2) Final adjudication and finding of guilt, or the entrance of 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 that is licensed or regulated under sections 324.520 to 324.526, and the regulations promulgated thereunder, 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 required under sections 324.520 to 324.526;

(4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession that is licensed or regulated under sections 324.520 to 324.526;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 324.520 to 324.526, or any lawful rule or regulation adopted under sections 324.520 to 324.526;

(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, license, permit, or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated under sections 324.520 to 324.526, granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state;

(9) Final adjudication by a court of competent jurisdiction that a person is insane or incompetent;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 324.520 to 324.526, who is licensed and is currently ineligible to practice under sections 324.520 to 324.526;

(11) Causing the division to issue a certificate of registration or authority, permit, or license based upon a material mistake of fact;

(12) Failure to display a valid license;

(13) Violation of any advertisement or solicitation that is false, misleading, or deceptive to the general public, or persons to whom the advertisement or solicitation is primarily directed;

(14) Failure or refusal to properly guard against contagious, infectious, or communicable diseases and the spread thereof.

2. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that grounds, provided in subsection 1 of this section, for disciplinary action are met, the division may, singly, or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the division 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.

3. The division, acting upon its own knowledge or written or verified complaint filed by any person, may discipline a person as provided in subsections 1 or 2 of this section or the division may bring an action to enjoin any person, establishment, firm, or corporation from engaging in an occupation regulated by the provisions of sections 324.520 to 324.526,

if such person, firm, or corporation without being licensed to do so by the division, engages in or practices an occupation licensed under sections 324.520 to 324.526. The action shall be brought in the county in which such person resides, or, in the case of an establishment, firm, or corporation, where the establishment, firm, or corporation maintains its principal office; and unless it appears that such person, establishment, firm, or corporation so engaging or practicing such occupation is licensed, the injunction shall be issued, and such person, firm, or corporation shall be perpetually enjoined from engaging in such activities throughout the state.

324.1100. DEFINITIONS. — As used in sections 324.1100 to 324.1148, the following terms mean:

(1) "Board", the board of private investigator examiners established in section 324.1102;

(2) "Client", any person who engages the services of a private investigator;

(3) "Department", the department of insurance, financial institutions and professional registration;

(4) "Law enforcement officer", a law enforcement officer as defined in section 556.061, RSMo;

(5) "Organization", a corporation, trust, estate, partnership, cooperative, or association;

(6) "Person", an individual or organization;

(7) "Private investigator", any person who receives any consideration, either directly or indirectly, for engaging in the private investigator business;

(8) "Private investigator agency", a person who regularly employs any other person, other than an organization, to engage in the private investigator business;

(9) "Private investigator business", the furnishing of, making of, or agreeing to make, any investigation for the purpose of obtaining information pertaining to:

(a) Crimes or wrongs done or threatened against the United States or any state or territory of the United States;

(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

(c) The location, disposition, or recovery of lost or stolen property;

(d) Securing evidence to be used before any court, board, officer, or investigating committee;

(e) Sale of personal identification information to the public; or

(f) The cause of responsibility for libel, losses, accident, or damage or injury to persons or property or protection of life or property.

324.1102. BOARD CREATED, MEMBERS, QUALIFICATIONS, TERMS — FUND CREATED, USE OF MONEYS. — 1. The "Board of Private Investigator Examiners" is hereby created within the division of professional registration. The board shall be a body corporate and may sue and be sued.

2. The board shall be composed of five members, including two public members, appointed by the governor with the advice and consent of the senate. Except for the public members, each member of the board shall be a citizen of the United States, a resident of Missouri, at least thirty years of age, and shall have been actively engaged in the private investigator business for the previous five years. No more than one private investigator board member may be employed by, or affiliated with, the same private investigator agency. The initial private investigator board members shall not be required to be licensed but shall obtain a license within one hundred eighty days after the effective date of the rules promulgated under sections 324.1100 to 324.1148 regarding licensure.

The public members shall each be a registered voter and a person who is not and never was a member of any profession licensed or regulated under sections 324.1100 to 324.1148 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 sections 324.1100 to 324.1148, or an activity or organization directly related to any profession licensed or regulated under sections 324.1100 to 324.1148. The duties of the public members 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. The members shall be appointed for terms of two years, except those first appointed, in which case two members, who shall be private investigators, shall be appointed for terms of four years, two members shall be appointed for terms of three years, and one member shall be appointed for a one-year term. Any vacancy on the board shall be filled for the unexpired term of the member and in the manner as the first appointment. No member may serve consecutive terms.

4. The members of the board may receive compensation, as determined by the director for their services, if appropriate, and shall be reimbursed for actual and necessary expenses incurred in performing their official duties on the board.

5. There is hereby created in the state treasury the "Board of Private Investigator Examiners Fund", which shall consist of money collected under sections 324.1100 to 324.1148. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with the provisions of sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of sections 324.1100 to 324.1148. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

324.1104. PROHIBITED ACTS. — Unless expressly exempted from the provisions of sections 324.1100 to 324.1148:

(1) It shall be unlawful for any person to engage in the private investigator business in this state unless such person is licensed as a private investigator under sections 324.1100 to 324.1148;

(2) It shall be unlawful for any person to engage in business in this state as a private investigator agency unless such person is licensed under sections 324.1100 to 324.1148.

324.1106. PERSONS DEEMED NOT TO BE ENGAGING IN PRIVATE INVESTIGATION BUSINESS. — The following persons shall not be deemed to be engaging in the private investigator business:

(1) A person employed exclusively and regularly by one employer in connection only with the affairs of such employer and where there exists an employer-employee relationship;

(2) Any officer or employee of the United States, or of this state or a political subdivision thereof while engaged in the performance of the officer's or employee's official duties;

(3) Any employee, agent, or independent contractor employed by any government agency, division, or department of the state whose work relationship is established by a

written contract while working within the scope of employment established under such contract;

(4) An attorney performing duties as an attorney, or an attorney's paralegal or employee retained by such attorney assisting in the performance of such duties or investigation on behalf of such attorney;

(5) A collection agency or an employee thereof while acting within the scope of employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or a debtor's property where the contract with an assignor creditor is for the collection of claims owed or due, or asserted to be owed or due, or the equivalent thereof;

(6) Insurers and insurance producers licensed by the state, performing duties in connection with insurance transacted by them;

(7) Any bank subject to the jurisdiction of the director of the division of finance of the state of Missouri or the comptroller of currency of the United States;

(8) An insurance adjuster. For the purposes of sections 324.1100 to 324.1148, an "insurance adjuster" means any person who receives any consideration, either directly or indirectly, for adjusting in the disposal of any claim under or in connection with a policy of insurance or engaging in soliciting insurance adjustment business;

(9) Any private fire investigator whose primary purpose of employment is the determination of the origin, nature, cause, or calculation of losses relevant to a fire;

(10) Employees of a not-for-profit organization or its affiliate or subsidiary, whether for-profit or not-for-profit, whose investigatory activities are limited to making and processing requests for criminal history records and other background information from state, federal, or local databases, including requests for employee background check information under section 660.317, RSMo;

(11) Any real estate broker, real estate salesperson, or real estate appraiser acting within the scope of his or her license;

(12) Expert witnesses who have been certified or accredited by a national or state association associated with the expert's scope of expertise;

(13) Any person who does not hold themselves out to the public as a private investigator but is under contract with a state agency or political subdivision;

(14) Any person performing duties or conducting investigations relating to serving legal process when such person's investigation is incidental to the serving of legal process; or

(15) A consumer reporting agency is defined in 15 U.S.C. Section 1681(a) and its contract and salaried employees.

324.1108. APPLICATION FOR LICENSURE, CONTENTS — QUALIFICATIONS. — 1. Every person desiring to be licensed in this state as a private investigator or private investigator agency shall make application therefor to the board of private investigator examiners. An application for a license under the provisions of sections 324.1100 to 324.1148 shall be on a form prescribed by the board of private investigator examiners and accompanied by the required application fee. An application shall be verified and shall include:

(1) The full name and business address of the applicant;

(2) The name under which the applicant intends to conduct business;

(3) A statement as to the general nature of the business in which the applicant intends to engage;

(4) A statement as to the classification or classifications under which the applicant desires to be qualified;

(5) Two recent photographs of the applicant, of a type prescribed by the board of private investigator examiners, and two classifiable sets of the applicant's fingerprints processed in a manner approved by the Missouri state highway patrol, criminal records and identification division, under section 43.543, RSMo;

(6) A verified statement of the applicant's experience qualifications; and

(7) Such other information, evidence, statements, or documents as may be required by the board of private investigator examiners.

2. Before an application for a license may be granted, the applicant shall:

(1) Be at least twenty-one years of age;

(2) Be a citizen of the United States;

(3) Provide proof of liability insurance with amount to be no less than two hundred fifty thousand dollars in coverage and proof of workers' compensation insurance if required under chapter 287, RSMo. The board shall have the authority to raise the requirements as deemed necessary; and

(4) Comply with such other qualifications as the board adopts by rules and regulations.

324.1110. EXAMINATION IS REQUIRED — BACKGROUND INVESTIGATION REQUIRED — WAIVER OF TESTING, SHOWING REQUIRED. — 1. The board of private investigator examiners shall require as a condition of licensure as a private investigator that the applicant pass a written examination as evidence of knowledge of investigator rules and regulations.

2. The department shall conduct a complete investigation of the background of each applicant for licensure as a private investigator to determine whether the applicant is qualified for licensure under sections 324.1100 to 324.1148. The board will outline basic qualification requirements for licensing as a private investigator and agency.

3. In the event requirements have been met so that testing has been waived, qualification shall be dependent on a showing of, for the two previous years:

(1) Registration and good standing as a business in this state; and

(2) Two hundred fifty thousand dollars in business general liability insurance.

4. The board may review applicants seeking reciprocity. An applicant seeking reciprocity shall have undergone a licensing procedure similar to that required by this state and shall meet this state's minimum insurance requirements.

324.1112. DENIAL OF A REQUEST FOR LICENSURE, WHEN. — The board of private investigator examiners may deny a request for a license if the applicant:

(1) Has committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under the provisions of sections 324.1100 to 324.1148;

(2) Within two years prior to the application date:

(a) Has been convicted of or entered a plea of guilty or nolo contendere to a felony offense, including the receiving of a suspended imposition of sentence following a plea or finding of guilty to a felony offense;

(b) Has been convicted of or entered a plea of guilty or nolo contendere to a misdemeanor offense involving moral turpitude;

(c) Has falsified or willfully misrepresented information in an employment application, records of evidence, or in testimony under oath;

(d) Has been dependent on or abused alcohol or drugs; or

(e) Has used, possessed, or trafficked in any illegal substance;

(3) Has been refused a license under the provisions of sections 324.1100 to 324.1148 or had a license revoked in this state or in any other state;

(4) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1100 to 324.1148 after the effective date of this section; or

(5) Knowingly made any false statement in the application.

324.1114. FEE REQUIRED — LICENSE FOR INDIVIDUALS ONLY, AGENCY LICENSE MUST BE APPLIED FOR SEPERATELY. — 1. Every application submitted under the provisions of sections 324.1100 to 324.1148 shall be accompanied by a fee as determined by the board as follows:

(1) For an individual license, agency license and employees being licensed to work under an agency license; or

(2) If a license is issued for a period of less than one year, the fee shall be prorated for the months, or fraction thereof, for which the license is issued.

2. The board shall set fees as authorized by sections 324.1100 to 324.1148 at a level to produce revenue which will not substantially exceed the cost and expense of administering sections 324.1100 to 324.1148.

3. The fees prescribed by sections 324.1100 to 324.1148 shall be exclusive and notwithstanding any other provision of law. No municipality may require any person licensed under sections 324.1100 to 324.1148 to furnish any bond, pass any examination, or pay any license fee or occupational tax relative to practicing the person's profession.

4. A private investigator license shall allow only the individual licensed by the state to conduct investigations. An agency license shall be applied for separately and held by an individual who is licensed as a private investigator. The agency may hire individuals to work for the agency conducting investigations for the agency only. Persons hired shall make application as determined by the board and meet all requirements set forth by the board except that they shall not be required to meet any experience requirements and shall be allowed to begin working immediately upon the agency submitting their applications.

324.1116. AGENCY HIRING CRITERIA. — A private investigator agency shall not hire any individual as an employee unless the individual:

(1) Is at least twenty-one years of age;

(2) Provides two recent photographs of themselves, of a type prescribed by the board of private investigator examiners;

(3) Has been fingerprinted in a manner approved by the Missouri state highway patrol, criminal records and identification division, under section 43.543, RSMo; and

(4) Complies with any other qualifications and requirements the board adopts by rule.

324.1118. PROHIBITED ACTS. — A private investigator agency shall not hire an individual, who is not licensed as a private investigator, as an employee if the individual:

(1) Has committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under the provisions of sections 324.1100 to 324.1148;

(2) Within two years prior to the hiring date:

(a) Has been convicted of or entered a plea of guilty or nolo contendere to a felony offense, including the receiving of a suspended imposition of sentence following a plea or finding of guilty to a felony offense;

(b) Has been convicted of or entered a plea of guilty or nolo contendere to a misdemeanor offense involving moral turpitude;

(c) Has falsified or willfully misrepresented information in an employment application, records of evidence, or in testimony under oath;

(d) Has been dependent on or abused alcohol or drugs; or

(e) Has used, possessed, or trafficked in any illegal substance;

(3) Has been refused a license under the provisions of sections 324.1100 to 324.1148 or had a license revoked in this state or in any other state;

(4) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1100 to 324.1148 after the effective date of this section; or

(5) Knowingly made any false statement in the application.

324.1120. SUPERVISION OF AGENCY EMPLOYEES REQUIRED, WHEN. — An individual, who is not licensed as a private investigator, hired as an employee by a private investigator agency shall work only under the direct supervision of the agency whose identification number appears on their application and shall work only for one agency at any one time.

324.1122. CONTINUING EDUCATION REQUIREMENTS. — A licensee shall successfully complete sixteen hours of continuing education units biennially. An individual not licensed as a private investigator who is hired as an employee by a private investigator agency shall successfully complete eight hours of continuing education units biennially. Such continuing education shall be relevant to the private investigator business and shall be approved by the board as such.

324.1124. FORM OF LICENSE, CONTENTS — POSTING REQUIREMENTS. — 1. The board of private investigator examiners shall determine the form of the license which shall include the:

(1) Name of the licensee;

(2) Name under which the licensee is to operate; and

(3) Number and date of the license.

2. The license shall be posted at all times in a conspicuous place in the principal place of business of the licensee. Upon the issuance of a license, a pocket card of such size, design, and content as determined by the division shall be issued without charge to each licensee. Such card shall be evidence that the licensee is licensed under sections 324.1100 to 324.1148. When any person to whom a card is issued terminates such person's position, office, or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the board of private investigator examiners for cancellation. Within thirty days after any change of address, a licensee shall notify the board of the address change. The principal place of business may be at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office.

324.1126. EXPIRATION OF LICENSE, WHEN — RENEWAL — LICENSEE RESPONSIBLE FOR GOOD CONDUCT OF EMPLOYEES. — 1. Any license issued under sections 324.1100 to 324.1148 shall expire two years after the date of its issuance. Renewal of any such license shall be made in the manner prescribed for obtaining an original license, including payment of the appropriate fee, except that:

(1) The application upon renewal need only provide information required of original applicants if the information shown on the original application or any renewal thereof on file with the board is no longer accurate;

(2) A new photograph shall be submitted with the application for renewal only if the photograph on file with the board has been on file more than two years; and

(3) The applicant does not have to be tested again but must instead provide proof that the applicant successfully completed sixteen hours of continuing education credits; and

(4) Additional information may be required by rules and regulations adopted by the board of private investigator examiners.

2. A licensee shall at all times be legally responsible for the good conduct of each of the licensee's employees or agents while engaged in the business of the licensee and the

licensee is legally responsible for any acts committed by such licensee's employees or agents which are in violation of sections 324.1100 to 324.1148. A person receiving an agency license shall directly manage the agency and employees.

3. A license issued under sections 324.1100 to 324.1148 shall not be assignable.

324.1128. INFORMATION REGARDING CRIMINAL OFFENSES, LICENSEE MAY DIVULGE, WHEN, EXCEPTIONS — PROHIBITED ACTS. — 1. Any licensee may divulge to the board, any law enforcement officer, prosecuting attorney, or such person's representative any information such person may acquire about any criminal offense. The licensee may instruct his or her client to divulge such information if the client is the victim, but such person shall not divulge to any other person, except as he or she may be required by law, any information acquired by such person at the direction of the employer or client for whom the information was obtained.

2. No licensee officer, director, partner, associate, or employee thereof shall:

(1) Knowingly make any false report to his or her employer or client for whom information was being obtained;

(2) Cause any written report to be submitted to a client except by the licensee, and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such report are true and correct;

(3) Use a title, wear a uniform, use an insignia or an identification card, or make any statement with the intent to give an impression that such person is connected in any way with the federal government, a state government, or any political subdivision of a state government;

(4) Appear as an assignee party in any proceeding involving claim and delivery, replevin or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien;

(5) Manufacture false evidence; or

(6) Create any video recording of an individual in their domicile without the individual's permission. Furthermore, if such video recording is made, it shall not be admissible as evidence in any civil proceeding.

324.1130. RECORDS TO BE MAINTAINED — REQUIRED FILINGS. — Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board of private investigator examiners. Such licensee shall file with the board the complete address of the location of the licensee's principal place of business. The board may require the filing of other information for the purpose of identifying such principal place of business.

324.1132. ADVERTISING REQUIREMENTS. — Every advertisement by a licensee soliciting or advertising business shall contain the licensee's name, city, and state as it appears in the records of the board of private investigator examiners. No individual or business can advertise as a private investigator, private detective, or private investigator agency without including their state private investigator or private investigator agency license number in the advertisement. A licensee shall not advertise or conduct business from any Missouri address other than that shown on the records of the board as the licensee's principal place of business unless the licensee has received an additional agency license for such location after compliance with the provisions of sections 324.1100 to 324.1148 and such additional requirements necessary for the protection of the public as the board may prescribe by regulation. A licensee shall notify the board in writing within ten days after closing or changing the location of a branch office. The fee for the additional license shall be one-half the cost of the fee for the agency's original license.

324.1134. LICENSURE SANCTIONS PERMITTED, PROCEDURE — COMPLAINT MAY BE FILED WITH ADMINISTRATIVE HEARING COMMISSION — DISCIPLINARY ACTION AUTHORIZED, WHEN. — 1. The board may suspend or refuse to renew any certificate of registration or authority, permit or license required under sections 324.1100 to 324.1148 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 suspension or 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. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

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 the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Making any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof;

(2) Violating any provision of sections 324.1100 to 324.1148;

(3) Violating any rule of the board of private investigator examiners adopted under the authority contained in sections 324.1100 to 324.1148;

(4) Impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof;

(5) Committing, or permitting any employee to commit any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;

(6) Knowingly violating, or advising, encouraging, or assisting the violation of, any court order or injunction in the course of business as a licensee;

(7) Using any letterhead, advertisement, or other printed matter, or in any manner whatever represented that such person is an instrumentality of the federal government, a state, or any political subdivision thereof;

(8) Using a name different from that under which such person is currently licensed in any advertisement, solicitation, or contract for business; or

(9) Committing any act which is grounds for denial of an application for a license under section 324.1112.

3. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction, and a plea or verdict of guilty is deemed to be a conviction within the meaning thereof.

4. The agency may continue under the direction of another employee if the licensee's license is suspended or revoked by the board. The board shall establish a time frame in which the agency shall identify an acceptable person who is qualified to assume control of the agency, as required by the board.

5. After the filing of a complaint before the administrative hearing commission, 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 in subsection 1 of this section for disciplinary action are met, the board may singly or in combination censure or place the person named in the complaint on probation under such terms and conditions as the board deems appropriate for a period not to exceed five years, may suspend for a period not to exceed three years, or revoke the license.

324.1136. RECORD KEEPING REQUIREMENTS — INVESTIGATORY POWERS OF THE BOARD. — 1. Each private investigator or investigator agency operating under the provisions of sections 324.1100 to 324.1148 shall be required to keep a complete record of the business transactions of such investigator or investigator agency for a period of seven years. Upon the service of a court order issued by a court of competent jurisdiction or upon the service of a subpoena issued by the board that is based on a complaint supported by oath or affirmation, which particularly describes the records and reports, any licensed private investigator who is the owner, partner, director, corporate officer, or custodian of business records shall provide an opportunity for the inspection of the same and to inspect reports made. Any information obtained by the board shall be kept confidential, except as may be necessary to commence and prosecute any legal proceedings. The board shall not personally enter a licensee's place of business to inspect records, but shall utilize an employee of the division of professional registration to act as a gatherer of information and facts to present to the board regarding any complaint or inspection under investigation.

2. For the purpose of enforcing the provisions of sections 324.1100 to 324.1148, and in making investigations relating to any violation thereof, the board shall have the power to subpoena and bring before the board any person in this state and require the production of any books, records, or papers which the board deems relevant to the inquiry. The board also may administer an oath to and take the testimony of any person, or cause such person's deposition to be taken, except that any applicant or licensee or officer, director, partner, or associate thereof shall not be entitled to any fees or mileage. A subpoena issued under this section shall be governed by the Missouri rules of civil procedure and shall comply with any confidentiality standards or legal limitations imposed by privacy or open records acts, fair credit reporting acts, polygraph acts, driver privacy protection acts, judicially recognized privileged communications, and the bill of rights of both the United States and Missouri Constitutions. Any person duly subpoenaed who fails to obey such subpoena without reasonable cause, or without such cause refuses to be examined or to answer any legal or pertinent question as to the character or qualification of such applicant or licensee or such applicant's alleged unlawful or deceptive practices or methods, shall be guilty of a class A misdemeanor. The testimony of witnesses in any investigative proceeding shall be under oath.

324.1138. RULEMAKING AUTHORITY. — 1. The board shall adopt such rules and regulations as may be necessary to carry out the provisions of sections 324.1100 to 324.1148.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 324.1100 to 324.1148 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, 2007, shall be invalid and void.

324.1140. BOARD TO CERTIFY PERSONS QUALIFIED TO TRAIN PRIVATE INVESTIGATORS, QUALIFICATIONS — APPLICATION PROCEDURE — CERTIFICATE GRANTED, WHEN — EXPIRATION OF CERTIFICATE. — 1. The board of private investigator examiners shall certify persons who are qualified to train private investigators.

2. In order to be certified as a trainer under this section, a trainer shall:

(1) Be twenty-one or more years of age;

(2) Have a minimum of one-year supervisory experience with a private investigator agency; and

(3) Be personally licensed as a private investigator under sections 324.1100 to 324.1148 and qualified to train private investigators.

3. Persons wishing to become certified trainers shall make application to the board of private investigator examiners on a form prescribed by the board and accompanied by a fee determined by the board. The application shall contain a statement of the plan of operation of the training offered by the applicant and the materials and aids to be used and any other information required by the board.

4. A certificate shall be granted to a trainer if the board finds that the applicant:

(1) Meets the requirements of subsection 2 of this section;

(2) Has sufficient knowledge of private investigator business in order to train private investigators sufficiently;

(3) Has supplied all required information to the board; and

(4) Has paid the required fee.

5. The certificate issued under this section shall expire on the third year after the year in which it is issued and shall be renewable triennially upon application and payment of a fee.

324.1142. FALSIFICATION OF REQUIRED INFORMATION, PENALTIES. — Any person who knowingly falsifies the fingerprints or photographs or other information required to be submitted under sections 324.1100 to 324.1148 is guilty of a class D felony; and any person who violates any of the other provisions of sections 324.1100 to 324.1148 is guilty of a class A misdemeanor.

324.1144. RECIPROCITY. — The board may negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed private investigator agencies and licensed private investigators who meet or exceed the qualifications established in sections 324.1100 to 324.1148 to operate across state lines under mutually acceptable terms.

324.1146. LICENSURE OF LAW ENFORCEMENT OFFICERS, QUALIFICATIONS. — Law enforcement officers who perform private investigations shall be licensed under this chapter subject to the following qualifications and limitations:

(1) The board may waive testing for law enforcement officers currently certified under existing peace officer standards and training requirements under chapter 590, RSMo;

(2) Law enforcement officers shall pay the appropriate licensing fees;

(3) Law enforcement officers shall assume individual liability for their actions while performing private investigations, complying with any insurance or bonding requirements imposed under sections 324.1100 to 324.1148;

(4) Law enforcement officers shall not utilize their official capacity in the course of a private investigation, including but not limited to:

(a) Accessing information intended only for police officials. Law enforcement officers shall comply with the legal limits on access to the information of private citizens;

(b) Utilizing any official item, such as a uniform, badge, or vehicle, while performing a private investigation. Law enforcement officers shall provide their own equipment;

(c) Utilizing law enforcement officer arrest and use of force standards. Law enforcement officers shall use private citizen arrest and use of force standards while operating as a private investigator;

(5) Law enforcement officers shall produce evidence of training and experience concerning the legal limits imposed on private investigations or pass a test on such subject produced by the board; and

(6) The provisions of sections 324.1100 to 324.1148 shall not apply to law enforcement officers who provide only private security services and not private investigator services.

324.1148. VIOLATIONS, PENALTY. — Any person who violates sections 324.1100 to 324.1148 is guilty of a class A misdemeanor. Any second or subsequent violation of sections 324.1100 to 324.1148 is a class D felony.

327.011. DEFINITIONS. — As used in this chapter, the following words and terms shall have the meanings indicated:

(1) "Accredited degree program from a school of architecture", a degree from any school or other institution which teaches architecture and whose curricula for the degree in question have been, at the time in question, certified as accredited by the National Architectural Accrediting Board;

(2) "Accredited school of landscape architecture", any school or other institution which teaches landscape architecture and whose curricula on the subjects in question are or have been at the times in question certified as accredited by the Landscape Architecture Accreditation Board of the American Society of Landscape Architects;

(3) "Accredited school of engineering", any school or other institution which teaches engineering and whose curricula on the subjects in question are or have been, at the time in question certified as accredited by the engineering accreditation commission of the accreditation board for engineering and technology or its successor organization;

(4) "Architect", any person authorized pursuant to the provisions of this chapter to practice architecture in Missouri, as the practice of architecture is defined in section 327.091;

(5) "Board", the Missouri board for architects, professional engineers, professional land surveyors and landscape architects;

(6) "Corporation", any general business corporation, professional corporation or limited liability company;

(7) **[**"Department", the department of economic development;

(8) "Division", the division of professional registration in the department of economic development;

(9)**]** "Landscape architect", any person licensed pursuant to the provisions of sections 327.600 to 327.635 who is qualified to practice landscape architecture by reason of special knowledge and the use of biological, physical, mathematical and social sciences and the principles and methods of analysis and design of the land, has demonstrated knowledge and ability in such areas, and has been duly licensed as a landscape architect by the board on the basis of professional education, examination and experience in landscape architecture;

(8) "Licensee", a person licensed to practice any profession regulated under this chapter or a corporation authorized to practice any such profession;

[(10)**] (9)** "Partnership", any partnership or limited liability partnership;

[(11)**] (10)** "Person", any person, corporation, firm, partnership, association or other entity;

[(12)**] (11)** "Professional engineer", any person authorized pursuant to the provisions of this chapter to practice as a professional engineer in Missouri, as the practice of engineering is defined in section 327.181;

[(13)**] (12)** "Professional land surveyor", any person authorized pursuant to the provisions of this chapter to practice as a professional land surveyor in Missouri as the practice of land surveying is defined in section 327.272.

327.076. LICENSURE REQUIRED, PENALTY FOR VIOLATION — COMPLAINT PROCEDURE. — 1. Any person who practices architecture, engineering, land surveying, or landscape architecture, as defined in sections 327.011 to 327.635, or who holds himself or herself out as able to practice such profession and who is not the holder of a currently valid license or certificate of authority in Missouri, and who is not exempt from holding such a license or certificate, is guilty of a class A misdemeanor. As used in this section "practice" shall not include the rendering of opinions or giving of testimony in a civil or criminal proceeding by a licensed professional.

2. The board may cause a complaint to be filed with the administrative hearing commission, as provided in chapter 621, RSMo, against any unlicensed person who:

(1) Engages in or offers to render or engage in the practice of architecture, professional engineering, land surveying, or landscape architecture;

(2) Uses or employs titles defined and protected by this chapter, or implies authorization to provide or offer professional services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person is licensed or holds a certificate of authority to practice architecture, professional engineering, land surveying, or landscape architecture;

(3) Presents or attempts to use another person's license, seal, or certificate of authority as his or her own;

(4) Attempts to use an expired, suspended, revoked, or nonexistent license or certificate of authority;

(5) Affixes his or her or another architect's, engineer's, land surveyor's, or landscape architect's seal on any plans, drawings, specifications or reports which have not been prepared by such person or under such person's immediate personal supervision care;

(6) Gives false or forged evidence of any kind to the board or any member of the board in obtaining or attempting to obtain a certificate of licensure in this state or any other state or jurisdiction;

(7) Knowingly aids or abets an unlicensed or unauthorized person who engages in any prohibited activity identified in this subsection;

(8) Violates any provision of the code of professional conduct or other rule adopted by the board; or

(9) Violates any provision of subsection 2 of section 327.441.

3. When reviewing complaints against unlicensed persons, the board may initiate an investigation and take all measures necessary to find the facts of any potential violation, including issuing subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence, and may request the attorney general to bring an action to enforce the subpoena.

4. If the board files a complaint with the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, either singularly or in combination with other provisions of this chapter, impose a civil penalty as provided for in section 327.077 against the person named in the complaint.

327.077. CIVIL PENALTIES MAY BE IMPOSED, WHEN — AMOUNT, LIMIT, DETERMINATION OF — SETTLEMENT REQUIREMENTS. — 1. In disciplinary actions against licensed or unlicensed persons, the board may issue an order imposing a civil penalty. Such penalty shall not be imposed until the findings of fact and conclusions of law by the administrative hearing commission have been delivered to the board in accordance with section 621.110, RSMo. Further, no civil penalty shall commence until a formal meeting and vote by the board has been taken to impose such a penalty.

2. A civil penalty imposed under this section shall not exceed five thousand dollars for each offense. Each day of a continued violation constitutes a separate offense, with a

maximum penalty of twenty-five thousand dollars. In determining the amount of penalty to be imposed, the board may consider any of the following:

(1) Whether the amount imposed will be a substantial deterrent to the violation;

(2) The circumstances leading to the violation;

(3) The severity of the violation and the risk of harm to the public;

(4) The economic benefits gained by the violator as a result of noncompliance;

(5) The interest of the public.

3. Any final order imposing a civil penalty is subject to judicial review upon the filing of a petition under section 536.100, RSMo, by any person subject to the penalty.

4. Payment of a civil penalty shall be made within sixty days of filing the order, or if the order is stayed pending an appeal within ten days after the court enters a final judgment in favor of the board. If the penalty is not timely paid, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs and a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

5. An action to enforce an order under this section may be joined with an action for an injunction.

6. Any offer of settlement to resolve a civil penalty under this section shall be in writing, state that an action for imposition of a civil penalty may be initiated by the attorney general representing the board under this section, and identify any dollar amount as an offer of settlement, which shall be negotiated in good faith through conference, conciliation, and persuasion.

7. Failure to pay a civil penalty by any person licensed under this chapter shall be grounds for refusing to renew or denying reinstatement of a license or certificate of authority.

8. Penalties collected under this section shall be handled in accordance with section 7 of article IX of the Missouri Constitution. Such penalties shall not be considered a charitable contribution for tax purposes.

327.181. PRACTICE AS PROFESSIONAL ENGINEER DEFINED — USE OF TITLES, RESTRICTIONS. — 1. Any person practices in Missouri as a professional engineer who renders or offers to render or holds himself or herself out as willing or able to render any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering teaching of advanced engineering subjects or courses related thereto, engineering surveys, the coordination of services furnished by structural, civil, mechanical and electrical engineers and other consultants as they relate to engineering work and the inspection of construction for the purpose of compliance with drawings and specifications, any of which embraces such service or work either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems or projects and including such architectural work as is incidental to the practice of engineering; or who uses the title "professional engineer" or "consulting engineer" or the word "engineer" alone or preceded by any word indicating or implying that such person is or holds himself or herself out to be a professional engineer, or who shall use any word or words, letters, figures, degrees, titles or other description indicating or implying that such person is a professional engineer or is willing or able to practice engineering.

2. Notwithstanding any provision of subsection 1 of this section, any person using the word "engineer", "engineers", or "engineering", alone or preceded by any word, or in combination with any words, may do so without being subject to disciplinary action by

the board so long as such use is reflective of that person's profession or vocation and is clearly not indicating or implying that such person is holding himself or herself out as being a professional engineer or is willing or able to practice engineering as defined in this section.

327.441. DENIAL, REVOCATION, OR SUSPENSION OF LICENSE OR CERTIFICATE, GROUNDS FOR. — 1. The board may refuse to issue any license or certificate of authority 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 license or certificate of authority required by this chapter or any person who has failed to renew or has surrendered such person's license or certificate of authority, for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license or certificate of authority issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a license or certificate of authority, or allowing any person to use his or her license or certificate of authority, or diploma from any school;

(8) Disciplinary action against the holder of a license or a certificate of authority, 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 incapacitated or disabled 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 licensed and currently eligible to practice pursuant to this chapter;

(11) Issuance of a professional license or a certificate of authority based upon a material mistake of fact;

(12) Failure to display a valid license or certificate of authority if so required by this chapter or any rule promulgated pursuant to this chapter;

(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.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, **or order a civil penalty under section 327.077,** or revoke the license or certificate of authority of the person named in the complaint.

331.010. PRACTICE OF CHIROPRACTIC, DEFINITION. — 1. The "practice of chiropractic" is defined as the science and art of examination, diagnosis, adjustment, manipulation and treatment **[**of malpositioned articulations and structures of the body,**]** both in inpatient and outpatient settings**, by those methods commonly taught in any chiropractic college or chiropractic program in a university which has been accredited by the Council on Chiropractic Education, its successor entity or approved by the board**. **[**The adjustment, manipulation, or treatment shall be directed toward restoring and maintaining the normal neuromuscular and musculoskeletal function and health.**]** It shall not include the use of operative surgery, obstetrics, osteopathy, podiatry, nor the administration or prescribing of any drug or medicine nor the practice of medicine. The practice of chiropractic is declared not to be the practice of medicine and operative surgery or osteopathy within the meaning of chapter 334, RSMo, and not subject to the provisions of the chapter.

2. **[**A licensed chiropractor may practice chiropractic as defined in subsection 1 of this section by those methods commonly taught in any chiropractic college recognized and approved by the board.

3. Chiropractors may advise and instruct patients in all matters pertaining to hygiene, nutrition, and sanitary measures as taught in any chiropractic college recognized and approved by the board.

4.**]** The practice of chiropractic may include meridian therapy/acupressure/acupuncture with certification as required by the board.

334.120. BOARD CREATED — MEMBERS, APPOINTMENT, QUALIFICATIONS, TERMS, COMPENSATION. — 1. There is hereby created and established a board to be known as "The State Board of Registration for the Healing Arts" for the purpose of registering, licensing and supervising all physicians and surgeons, and midwives in this state. The board shall consist of nine members, including one voting public member, to be appointed by the governor by and with the advice and consent of the senate, **at least** five of whom shall be graduates of professional schools **[**approved and accredited as reputable by the American Medical Association or the Liaison Committee on Medical Education and**] accredited by the Liaison Committee on Medical Education or recognized by the Educational Commission for Foreign Medical Graduates, and at least** two of whom shall be graduates of professional schools approved and accredited as reputable by the American Osteopathic Association, and all of whom, except the public member, shall be duly licensed and registered as physicians and surgeons pursuant to the laws of this state. Each member must be a citizen of the United States and must have been a resident of this state for a period of at least one year next preceding his or her appointment and shall have been actively engaged in the lawful and ethical practice of the profession of physician and surgeon for at least five years next preceding his or her appointment. Not more than four members shall be affiliated with the same political party. All members shall be appointed for a term of four years. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The president of the Missouri State Medical Association, for all medical physician appointments, or the president of the Missouri Association of Osteopathic Physicians

and Surgeons, for all osteopathic physician appointments, in office at the time shall, at least ninety days prior to the expiration of the term of the respective board member, other than the public member, or as soon as feasible after the appropriate vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five physicians and surgeons 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 State Medical Association or the Missouri Association of Osteopathic Physicians and Surgeons, as appropriate, 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 his or her 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.

335.016. DEFINITIONS. — As used in this chapter, unless the context clearly requires otherwise, the following words and terms mean:

(1) "Accredited", the official authorization or status granted by an agency for a program through a voluntary process;

(2) "Advanced practice nurse", a nurse who has had education beyond the basic nursing education and is certified by a nationally recognized professional organization as having a nursing specialty, or who meets criteria for advanced practice nurses established by the board of nursing. The board of nursing may promulgate rules specifying which professional nursing organization certifications are to be recognized as advanced practice nurses, and may set standards for education, training and experience required for those without such specialty certification to become advanced practice nurses. Advanced practice nurses and only such individuals may use the title "Advanced Practice Registered Nurse" and the abbreviation "APRN";

(3) "Approval", official recognition of nursing education programs which meet standards established by the board of nursing;

(4) "Board" or "state board", the state board of nursing;

(5) "Executive director", a qualified individual employed by the board as executive secretary or otherwise to administer the provisions of this chapter under the board's direction. Such person employed as executive director shall not be a member of the board;

(6) "Inactive nurse", as defined by rule pursuant to section 335.061;

(7) **"Lapsed license status", as defined by rule under section 335.061;**

(8) [A**]** "Licensed practical nurse" or "practical nurse", a person licensed pursuant to the provisions of this chapter to engage in the practice of practical nursing;

[(8)**] (9)** "Licensure", the issuing of a license to practice professional or practical nursing to candidates who have met the specified requirements and the recording of the names of those persons as holders of a license to practice professional or practical nursing;

[(9)**] (10)** "Practical nursing", the performance for compensation of selected acts for the promotion of health and in the care of persons who are ill, injured, or experiencing alterations in normal health processes. Such performance requires substantial specialized skill, judgment and knowledge. All such nursing care shall be given under the direction of a person licensed by a state regulatory board to prescribe medications and treatments or under the direction of a

registered professional nurse. For the purposes of this chapter, the term "direction" shall mean guidance or supervision provided by a person licensed by a state regulatory board to prescribe medications and treatments or a registered professional nurse, including, but not limited to, oral, written, or otherwise communicated orders or directives for patient care. When practical nursing care is delivered pursuant to the direction of a person licensed by a state regulatory board to prescribe medications and treatments or under the direction of a registered professional nurse, such care may be delivered by a licensed practical nurse without direct physical oversight;

[(10)**]** **(11)** "Professional nursing", the performance for compensation of any act which requires substantial specialized education, judgment and skill based on knowledge and application of principles derived from the biological, physical, social and nursing sciences, including, but not limited to:

(a) Responsibility for the teaching of health care and the prevention of illness to the patient and his or her family;

(b) Assessment, nursing diagnosis, nursing care, and counsel of persons who are ill, injured or experiencing alterations in normal health processes;

(c) The administration of medications and treatments as prescribed by a person licensed by a state regulatory board to prescribe medications and treatments;

(d) The coordination and assistance in the delivery of a plan of health care with all members of a health team;

(e) The teaching and supervision of other persons in the performance of any of the foregoing;

[(11)**]** **(12)** A "registered professional nurse" or "registered nurse", a person licensed pursuant to the provisions of this chapter to engage in the practice of professional nursing**;**

(13) "Retired license status", any person licensed in this state under this chapter who retires from such practice. Such person shall file with the board an affidavit, on a form to be furnished by the board, which states the date on which the licensee retired from such practice, an intent to retire from the practice for at least two years, and such other facts as tend to verify the retirement as the board may deem necessary; but if the licensee thereafter reengages in the practice, the licensee shall renew his or her license with the board as provided by this chapter and by rule and regulation.

335.036. DUTIES OF BOARD — FEES SET, HOW — FUND, SOURCE, USE, FUNDS TRANSFERRED FROM, WHEN — RULEMAKING.— 1. The board shall:

(1) Elect for a one-year term a president and a secretary, who shall also be treasurer, and the board may appoint, employ and fix the compensation of a legal counsel and such board personnel as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, as are necessary to administer the provisions of sections 335.011 to 335.096;

(2) Adopt and revise such rules and regulations as may be necessary to enable it to carry into effect the provisions of sections 335.011 to 335.096;

(3) Prescribe minimum standards for educational programs preparing persons for licensure pursuant to the provisions of sections 335.011 to 335.096;

(4) Provide for surveys of such programs every five years and in addition at such times as it may deem necessary;

(5) Designate as "approved" such programs as meet the requirements of sections 335.011 to 335.096 and the rules and regulations enacted pursuant to such sections; and the board shall annually publish a list of such programs;

(6) Deny or withdraw approval from educational programs for failure to meet prescribed minimum standards;

(7) Examine, license, and cause to be renewed the licenses of duly qualified applicants;

(8) Cause the prosecution of all persons violating provisions of sections 335.011 to 335.096, and may incur such necessary expenses therefor;

(9) Keep a record of all the proceedings; and make an annual report to the governor and to the director of the department of economic development**;**

(10) Establish an impaired nurse program.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

3. All fees received by the board pursuant to the provisions of sections 335.011 to 335.096 shall be deposited in the state treasury and be placed to the credit of the state board of nursing fund. All administrative costs and expenses of the board shall be paid from appropriations made for those purposes.

4. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule, permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

335.066. DENIAL, REVOCATION, OR SUSPENSION OF LICENSE, GROUNDS FOR, CIVIL IMMUNITY FOR PROVIDING INFORMATION — COMPLAINT PROCEDURES. — 1. The board may refuse to issue **or reinstate** any certificate of registration or authority, permit or license required pursuant to **[**sections 335.011 to 335.096**] chapter 335** for one or any combination of causes stated in subsection 2 of this section **or the board may, as a condition to issuing or reinstating any such permit or license, require a person to submit himself or herself for identification, intervention, treatment, or rehabilitation by the impaired nurse program as provided in section 335.067**. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by sections 335.011 to 335.096 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 335.011 to 335.096;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 335.011 to 335.096, for any offense an

essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to sections 335.011 to 335.096 or in obtaining permission to take any examination given or required pursuant to sections 335.011 to 335.096;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by sections 335.011 to 335.096;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 335.011 to 335.096, or of any lawful rule or regulation adopted pursuant to sections 335.011 to 335.096;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 335.011 to 335.096 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 335.011 to 335.096 who is not registered and currently eligible to practice pursuant to sections 335.011 to 335.096;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Violation of any professional trust or confidence;

(13) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(14) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(15) Placement on an employee disqualification list or other related restriction or finding pertaining to employment within a health-related profession issued by any state or federal government or agency following final disposition by such state or federal government or agency**;**

(16) Failure to successfully complete the impaired nurse program.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.

4. **For any hearing before the full board, the board shall cause the notice of the hearing to be served upon such licensee in person or by certified mail to the licensee at the licensee's last known address. If service cannot be accomplished in person or by certified mail, notice by publication as described in subsection 3 of section 506.160, RSMo, shall be allowed; any representative of the board is authorized to act as a court or judge would in that section; any employee of the board is authorized to act as a clerk would in that section.**

5. An individual whose license has been revoked shall wait one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the board after

compliance with all the requirements of sections 335.011 to 335.096 relative to the licensing of an applicant for the first time.

[5.] **6.** The board may notify the proper licensing authority of any other state concerning the final disciplinary action determined by the board on a license in which the person whose license was suspended or revoked was also licensed of the suspension or revocation.

[6.] **7.** Any person, organization, association or corporation who reports or provides information to the board of nursing pursuant to the provisions of sections 335.011 to 335.259 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

8. If the board concludes that a nurse has committed an act or is engaging in a course of conduct which would be grounds for disciplinary action which constitutes a clear and present danger to the public health and safety, the board may file a complaint before the administrative hearing commission requesting an expedited hearing and specifying the activities which give rise to the danger and the nature of the proposed restriction or suspension of the nurse's license. Within fifteen days after service of the complaint on the nurse, the administrative hearing commission shall conduct a preliminary hearing to determine whether the alleged activities of the nurse appear to constitute a clear and present danger to the public health and safety which justify that the nurse's license be immediately restricted or suspended. The burden of proving that a nurse is a clear and present danger to the public health and safety shall be upon the state board of nursing. The administrative hearing commission shall issue its decision immediately after the hearing and shall either grant to the board the authority to suspend or restrict the license or dismiss the action.

9. If the administrative hearing commission grants temporary authority to the board to restrict or suspend the nurse's license, such temporary authority of the board shall become final authority if there is no request by the nurse for a full hearing within thirty days of the preliminary hearing. The administrative hearing commission shall, if requested by the nurse named in the complaint, set a date to hold a full hearing under the provisions of chapter 621, RSMo, regarding the activities alleged in the initial complaint filed by the board.

10. If the administrative hearing commission refuses to grant temporary authority to the board or restrict or suspend the nurse's license under subsection 8 of this section, such dismissal shall not bar the board from initiating a subsequent disciplinary action on the same grounds.

335.067. IMPAIRED NURSE PROGRAM MAY BE ESTABLISHED BY BOARD — CONTRACTS — IMMUNITY FROM LIABILITY, WHEN — CONFIDENTIALITY OF INFORMATION. — 1. The state board of nursing may establish an impaired nurse program to promote the early identification, intervention, treatment, and rehabilitation of nurses who may be impaired by reasons of illness, substance abuse, or as a result of any mental condition. This program shall be available to anyone holding a current license and may be entered voluntarily, as part of an agreement with the board of nursing, or as a condition of a disciplinary order entered by the board of nursing.

2. The board may enter into a contractual agreement with a nonprofit corporation or a nursing association for the purpose of creating, supporting, and maintaining a program to be designated as the impaired nurse program. The board may promulgate administrative rules subject to the provisions of this section and chapter 536, RSMo, to effectuate and implement any program formed pursuant to this section.

3. The board may expend appropriated funds necessary to provide for operational expenses of the program formed pursuant to this section.

4. Any member of the program, as well as any administrator, staff member, consultant, agent, or employee of the program, acting within the scope of his or her duties and without actual malice, and all other persons who furnish information to the program

in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation, or action taken by the program, or by any individual member of the program.

5. All information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the program, as well as communications to or from the program, any findings, conclusions, interventions, treatment, rehabilitation, or other proceedings of the program which in any way pertain to a licensee who may be, or who actually is, impaired shall be privileged and confidential.

6. All records and proceedings of the program which pertain or refer to a licensee who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the program and its members only in the exercise of the proper function of the program and shall not be considered public records under chapter 610, RSMo, and shall not be subject to court subpoena or subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except as provided in subsection 4 of this section.

7. The program may disclose information relative to an impaired licensee only when:

(1) It is essential to disclose the information to further the intervention, treatment, or rehabilitation needs of the impaired licensee and only to those persons or organizations with a need to know;

(2) Its release is authorized in writing by the impaired licensee;

(3) A licensee has breached his or her contract with the program. In this instance, the breach may be reported only to the board of nursing; or

(4) The information is subject to a court order.

8. When pursuing discipline against a licensed practical nurse, registered nurse, or advanced practice registered nurse for violating one or more causes stated in subsection 2 of section 335.066, the board may, if the violation is related to chemical dependency or mental health, require that the licensed practical nurse, registered nurse, or advanced practice registered nurse complete the impaired nurse program under such terms and conditions as are agreed to by the board and the licensee for a period not to exceed five years. If the licensee violates a term or condition of an impaired nurse program agreement entered into under this section, the board may elect to pursue discipline against the licensee pursuant to chapter 621, RSMo, for the original conduct that resulted in the impaired nurse program agreement, or for any subsequent violation of subsection 2 of section 335.066. While the licensee participates in the impaired nurse program, the time limitations of section 620.154, RSMo, shall toll under subsection 7 of section 620.154, RSMo. All records pertaining to the impaired nurse program agreements are confidential and may only be released under subdivision (7) of subsection 14 of section 620.010, RSMo.

9. The board may disclose information and records to the impaired nurse program to assist the program in the identification, intervention, treatment, and rehabilitation of licensed practical nurses, registered nurses, or advanced practice registered nurses who may be impaired by reason of illness, substance abuse, or as the result of any physical or mental condition. The program shall keep all information and records provided by the board confidential to the extent the board is required to treat the information and records closed to the public under chapter 620, RSMo.

335.068. COMPLAINTS TO BE SEALED RECORDS, WHEN. — 1. **[**If the board finds merit to a complaint by an individual incarcerated or under the care and control of the department of corrections and takes further investigative action, no documentation may appear on file or disciplinary action may be taken in regards to the licensee's license unless the provisions of subsection 2 of section 335.066 have been violated. Any case file documentation that does not result in the board filing an action pursuant to subsection 2 of section 335.066 shall be destroyed within three months after the final case disposition by the board. No notification to any other

licensing board in another state or any national registry regarding any investigative action shall be made unless the provisions of subsection 2 of section 335.066 have been violated.

2. Upon written request of the nurse subject to a complaint, prior to August 28, 1999, by an individual incarcerated or under the care and control of the department of corrections that did not result in the board filing an action pursuant to subsection 2 of section 335.066, the board and the division of professional registration shall in a timely fashion:

(1) Destroy all documentation regarding the complaint;**] If the board determines that a complaint does not constitute a violation of the nursing practice act or that the complaint is unsubstantiated, then that complaint, and all documentation related to it, shall be deemed a sealed record. If the administrative hearing commission or a court of competent jurisdiction makes a finding that an action brought by the board does not constitute sufficient grounds to discipline the license of a licensee, that complaint, and all documentation related to it, shall be deemed a sealed record.**

2. For purposes of this section, a "sealed record" shall mean that the complaint to which it refers shall be deemed to never have occurred. The licensee may properly reply that no record exists with respect to such complaint upon any inquiry in the matter. A sealed record shall not be disclosed or reported to any other state agency, other board of nursing, or any other organization without express, written permission of the licensee.

3. Upon determination by the board that a complaint is not a violation of the nursing practice act or that the complaint is unsubstantiated, or upon the conclusion of litigation resulting in a finding of insufficient grounds to impose discipline upon a licensee's license, the board and the division of professional registration shall, in a timely fashion:

[(2)**] (1)** Notify any other licensing board in another state or any national registry regarding the board's action if they have been previously notified of the complaint; and

[(3)**] (2)** Send a letter to the licensee that clearly states that the board found the complaint to be unsubstantiated**[** , that the board has taken the requested action,**] or that litigation resulted in a finding that there are insufficient grounds to discipline the licensee's license, that the board has sealed all records concerning the complaint,** and notify the licensee of the provisions of subsection **[**3**] 4** of this section.

[3.**] 4.** Any person who has been the subject of an unsubstantiated complaint as provided in subsection 1 **[**or 2**]** of this section shall not be required to disclose the existence of such complaint in subsequent applications or representations relating to their nursing professions.

5. Nothing contained in this section shall prevent the board of nursing from maintaining such records as to ensure that all complaints received by the board are properly investigated and reviewed by the board and the results of that investigation are reported to the appropriate parties.

335.076. TITLES, R.N., L.P.N., AND APRN WHO MAY USE. — 1. Any person who holds a license to practice professional nursing in this state may use the title "Registered Professional Nurse" and the abbreviation "R.N.". No other person **[**may**] shall** use the title "Registered Professional Nurse" or the abbreviation "R.N.". No other person shall assume any title or use any abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a registered professional nurse.

2. Any person who holds a license to practice practical nursing in this state may use the title "Licensed Practical Nurse" and the abbreviation "L.P.N.". No other person **[**may**] shall** use the title "Licensed Practical Nurse" or the abbreviation "L.P.N.". No other person shall assume any title or use any abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a licensed practical nurse.

3. **Any person who holds a license or recognition to practice advanced practice nursing in this state may use the title "Advanced Practice Registered Nurse", and the abbreviation "APRN", and any other title designations appearing on his or her license. No other person shall use the title "Advanced Practice Registered Nurse" or the**

abbreviation "APRN". No other person shall assume any title or use any abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is an advanced practice registered nurse.

4. No person shall practice or offer to practice professional nursing **[**or**] ,** practical nursing**, or advanced practice nursing** in this state **[**for compensation**]** or use any title, sign, abbreviation, card, or device to indicate that such person is a practicing professional nurse **[**or**] ,** practical nurse**, or advanced practice nurse** unless he **or she** has been duly licensed under the provisions of **[**sections 335.011 to 335.096**] this chapter**.

5. In the interest of public safety and consumer awareness, it is unlawful for any person to use the title "nurse" in reference to himself or herself in any capacity, except individuals who are or have been licensed as a registered nurse, licensed practical nurse, or advanced practice registered nurse under this chapter.

6. Notwithstanding any law to the contrary, nothing in this chapter shall prohibit a person listed as a Christian Science nurse in the Christian Science Journal published by the Christian Science Publishing Society, Houston, Massachusetts, from using the title "Christian Science nurse", so long as such person provides religious nonmedical services when offering or providing services to a member of his or her own religious organization and does not hold his or her own religious organization and does not hold himself or herself out as a registered nurse, advanced practice registered nurse, nurse practitioner, licensed practical nurse, nurse midwife, clinical nurse specialist, or nurse anesthetists, unless otherwise authorized by law to do so.

335.096. PENALTY FOR VIOLATION. — Any person who violates any of the provisions of **[**sections 335.011 to 335.096**] chapter 335** is guilty of a class **[**A misdemeanor**] D felony** and, upon conviction, shall be punished as provided by law.

335.097. BOARD OF NURSING, POWERS, ENFORCEMENT. — 1. The president or secretary of the board of nursing may administer oaths, issue subpoenas duces tecum and require production of documents and records. Subpoenas duces tecum shall be served by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the board may require sworn copies of such documents to be filed with it or delivered to its designated representative.

2. The board may enforce its subpoenas duces tecum by applying to a circuit court of Cole County, the county of the investigation, hearing or proceeding, or any county where the person resides or may be found, for an order upon any person who shall fail to comply with a subpoena duces tecum to show cause why such subpoena should not be enforced, which such order and a copy of the application therefor shall be served upon the person in the same manner as a summons in a civil action, and if the circuit court shall, after a hearing, determine that the subpoena duces tecum should be sustained and enforced, such court shall proceed to enforce the subpoena duces tecum in the same manner as though the subpoena duces tecum had been issued in a civil case in the circuit court.

3. Reports made to the board under the mandated reporting requirements as defined in chapter 383, RSMo, shall not be deemed a violation of the federal health insurance portability and accountability act (HIPAA) and the privacy rules located in the act because the Missouri state board of nursing qualifies as a health oversight agency as defined in the HIPAA privacy rules.

335.212. DEFINITIONS. — As used in sections 335.212 to 335.242, the following terms mean:

(1) "Board", the Missouri state board of nursing;

(2) "Department", the Missouri department of health and senior services;

(3) "Director", director of the Missouri department of health and senior services;

(4) "Eligible student", a resident who has been accepted as a full-time student in a formal course of instruction leading to an associate degree, a diploma, a bachelor of science, or a master of science in nursing or leading to the completion of educational requirements for a licensed practical nurse;

(5) "Participating school", an institution within this state which is approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242, having a nursing department and offering a course of instruction based on nursing theory and clinical nursing experience;

(6) "Qualified applicant", an eligible student approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242;

(7) "Qualified employment", employment on a full-time basis in Missouri in a position requiring licensure as a licensed practical nurse or registered professional nurse in any hospital as defined in section 197.020, RSMo, or **[**public or nonprofit**] in any** agency, institution, or organization located in an area of need as determined by the department of health and senior services. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section;

(8) "Resident", any person who has lived in this state for one or more years for any purpose other than the attending of an educational institution located within this state.

336.010. DEFINING PRACTICE OF OPTOMETRY — OTHER DEFINITIONS. — **[**Any one or any combination of the following practices constitutes the "practice of optometry":

(1) The examination of the human eye, without the use of drugs, medicines or surgery, to ascertain the presence of defects or abnormal conditions which can be corrected by the use of lenses, prisms or ocular exercises;

(2) The employment of objective or subjective mechanical means to determine the accommodative or refractive states of the human eye or the range of power of vision of the human eye;

(3) The prescription or adaptation without the use of drugs, medicines or surgery, of lenses, prisms, or ocular exercises to correct defects or abnormal conditions of the human eye or to adjust the human eye to the conditions of special occupation.**] 1. The "practice of optometry" is the examination, diagnosis, treatment, and preventative care of the eye, adnexa, and vision. The practice includes, but is not limited to:**

(1) The examination of the eye, adnexa, and vision to determine the accommodative and refractive states, visual perception, conditions, and diseases;

(2) The diagnosis and treatment of conditions or diseases of the eye, adnexa, and vision;

(3) The performance of diagnostic procedures and ordering of laboratory and imaging tests for the diagnosis of vision and conditions and diseases of the eye and adnexa;

(4) The prescription and administration of pharmaceutical agents, excluding injectable agents, for the purpose of examination, diagnosis, and treatment of vision and conditions or diseases of the eye and adnexa;

(5) The removal of superficial foreign bodies from the eye or adnexa;

(6) The employment of objective or subjective mechanical means to determine the accommodative or refractive states of the human eye;

(7) The prescription or adaptation of lenses, prisms, devices, or ocular exercises to correct defects or abnormal conditions of the human eye or vision or to adjust the human eye to special conditions;

(8) The prescription and fitting of ophthalmic or contact lenses and devices;

(9) The prescription and administration of vision therapy; and

(10) The prescription and administration of low vision care.

2. An optometrist may not perform surgery, including the use of lasers for treatment of any disease or condition or for the correction of refractive error.

3. As used in this chapter, except as the context may otherwise require, the following terms mean:

(1) "Eye", the human eye;

(2) "Adnexa", all structures adjacent to the eye and the conjunctiva, lids, lashes, and lacrimal system;

(3) "Board", the Missouri state board of optometry;

(4) "Diagnostic pharmaceutical agents", topically applied pharmaceuticals used for the purpose of conducting an examination of the eye, adnexa, and vision;

(5) "Low vision care", the examination, treatment, and management of patients with visual impairments not treatable by conventional eyewear or contact lenses and may include a vision rehabilitation program to enhance remaining vision skills;

(6) "Pharmaceutical agents", any diagnostic and therapeutic drug or combination of drugs that assist the diagnosis, prevention, treatment, or mitigation of abnormal conditions or symptoms of the human eye, adnexa, and vision;

(7) "Therapeutic pharmaceutical agents", those pharmaceuticals, excluding injectable agents, used for the treatment of conditions or diseases of the eye, adnexa, and vision;

(8) "Vision therapy", a treatment regiment to improve a patient's diagnosed visual dysfunctions, prevent the development of visual problems, or enhance visual performance to meet the defined needs of the patient.

336.020. UNLAWFUL TO PRACTICE OPTOMETRY WITHOUT LICENSE. — It shall be unlawful for any person to practice **[**optometry or**] , to** attempt to practice **[**optometry**]**, or to **offer to practice optometry, or to** be employed by **[**a**] any person,** corporation, partnership, **[**or**]** association **[**for the purpose of practicing optometry**] , or other entity that practice or attempts to practice** without a **[**certificate of registration**] license** as **[**a registered**] an** optometrist issued by the **[**state**]** board **[**of optometry**]**. **Nothing in this section shall be construed to prohibit a person licensed or registered under chapter 334, RSMo, whose license is in good standing from acting within the scope of his or her practice or a person licensed as an optometrist in any state to serve as an expert witness in a civil, criminal, or administrative proceeding.**

336.030. PERSONS QUALIFIED TO RECEIVE CERTIFICATE OF REGISTRATION. — 1. A person is qualified to receive a **[**certificate of registration as a registered**] license as an** optometrist:

(1) Who is at least twenty-one years of age;

(2) Who is of good moral character **[**and**]**;

(3) Who has graduated from a **college or** school of optometry approved by the **[**state**]** board **[**of optometry**]**; **and**

(4) Who has **[**passed a satisfactory examination conducted by or approved by the state board of optometry to determine his fitness to receive a certificate of registration as a registered optometrist**] met either of the following conditions:**

(a) Has passed an examination satisfactory to, conducted by, or approved by the board to determine his or her fitness to receive a license as an optometrist with pharmaceutical certification and met the requirements of licensure as may be required by rule and regulation; or

(b) Has been licensed and has practiced for at least three years in the five years immediately preceding the date of application with pharmaceutical certification in another state, territory, country, or province in which the requirements are substantially equivalent to the requirements in this state and has satisfactorily completed any practical

examination or any examination on Missouri laws as may be required by rule and regulation.

2. The board may adopt reasonable rules and regulations providing for the examination and certification of optometrists who apply to the board for the authority to practice optometry in this state.

336.040. APPLICATIONS, FORM, CONTENTS, FEES. — Every person who desires to obtain a **[**certificate of registration**]** **license to practice optometry** shall apply **[**therefor**]** to the **[**state**]** board **[**of optometry**]**, in writing, on **[**blanks**]** **forms** prepared and furnished by the **[**state**]** board **[**of optometry**]**. **[**Each**]** **The** application shall **[**contain proof of the particular**]** **state the required** qualifications **[**required**]** of the applicant, **[**shall contain a statement that it is**]** **that the representations are** made under oath or affirmation and **[**that its representations**]** are true and correct to the **applicant's** best knowledge **[**and belief of the person signing same**]**, subject to the penalties of making a false affidavit or declaration and shall be accompanied by the examination fee.

336.050. EXAMINATIONS TO BE HELD — TO INCLUDE WHAT. — The **[**state**]** board **[**of optometry**]** shall hold examinations of applicants for **[**certificates of registration as registered optometrists**]** **a license as an optometrist** at such times and places as it may determine. The examination of applicants for **[**certificates of registration as registered optometrists**]** **a license as an optometrist** may include both practical demonstrations and written and oral tests, and shall embrace the subjects normally taught in schools of optometry approved by the **[**state**]** board **[**of optometry**]**.

336.060. LICENSES TO BE ISSUED, WHEN. — Whenever the provisions of this chapter have been complied with, and upon payment of the **[**certificate**]** **license** fee, the **[**state**]** board **[**of optometry**]** shall issue a **[**certificate of registration as a registered optometrist**]** **license as an optometrist**.

336.070. LICENSE TO BE DISPLAYED. — Every holder of **[**a certificate of registration**]** **an optometry license** shall display **[**it**]** **the license** in a conspicuous place in his **or her** principal office, place of business or employment. Whenever a **[**registered**]** **licensed** optometrist practices optometry **[**outside of, or**]** away from**[**,**]** his **or her** principal office, **[**places of business or employment, he**]** **the licensee** shall **[**deliver to each patient in his care a certificate of identification or provide other identification as authorized by rule and regulation**]** **obtain a duplicate renewal license from the board and display it in clear view of the public**.

336.080. RENEWAL OF LICENSE — REQUIREMENTS. — **1.** Every **[**registered**]** **licensed** optometrist who continues in active practice or service shall, on or before the renewal date, renew his **[**certificate of registration**]** **or her license** and pay the required renewal fee and present satisfactory evidence to the **[**state**]** board **[**of optometry**]** of his **or her** attendance for a minimum of **[**eight hours each year**]** **thirty-two hours of board-approved continuing education, or their equivalent** during the preceding **[**licensing period at educational optometric programs, or their equivalent, that have been approved by the board**]** **two-year continuing education reporting period as established by rule and regulation**. The **[**attendance or equivalent**]** **continuing education requirement** may be waived by the board upon presentation to it of satisfactory evidence of the illness of the optometrist or for other good cause as defined by rule and regulation. The board shall not reject any such application if approved programs are not available within the state of Missouri. Every **[**certificate of registration**]** **license** which has not been renewed on or before the renewal date shall expire.

2. Any **[**registered**]** **licensed** optometrist who permits his **[**certificate**]** **or her license** to expire may renew it within five years of expiration upon payment of the required **[**restoration**]**

reactivation fee and presentation of satisfactory evidence to the **[**state**]** board **[**of optometry**]** of his **or her** attendance for a minimum of **[**twenty-four**]** **forty-eight** hours **of board-approved continuing education, or their equivalent,** during the five years **[**at educational programs, or their equivalent, that have been approved by the board. The attendance or equivalent may be waived by the board upon presentation to it of satisfactory evidence of the illness of the optometrist or for other good cause as defined by rule and regulation**]**.

336.140. BOARD MEETINGS — COMPENSATION OF BOARD MEMBERS — FUND CREATED, USE, TRANSFERRED TO GENERAL REVENUE, WHEN. — 1. The board shall hold meetings for the examination of applicants for registration and the transaction of other business pertaining to its duties at least once in six months. **[**The board shall give thirty days' public notice of the time and place of this meeting.**]** Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his expenses necessarily incurred in the discharge of his official duties. All fees payable under this chapter shall be collected by the division of professional registration, which shall transmit the same to the department of revenue for deposit in the state treasury to the credit of a fund to be known as the "Optometry Fund". All costs and expenses incurred in administering the provisions of this chapter shall be appropriated and paid from this fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

336.160. BOARD MAY PROMULGATE RULES AND EMPLOY PERSONNEL — FEES, AMOUNT, HOW SET. — 1. The **[**state**]** board **[**of optometry**]** may adopt reasonable rules and regulations within the scope and terms of this chapter for the proper administration and enforcement thereof. It may employ such board personnel, as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, as it deems necessary within appropriations therefor.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

336.220. PHARMACEUTICALS, CERTIFICATION FOR ADMINISTERING REQUIRED — REFERRAL TO PHYSICIAN REQUIRED, WHEN — STANDARD OF CARE — RULEMAKING AUTHORITY. — 1. **[**The state board of optometry may adopt reasonable rules and regulations providing for the examination and certification of registered optometrists who apply to the board for authority to administer pharmaceutical agents in the practice of optometry. Such pharmaceutical agents may be "diagnostic pharmaceutical agents" or "therapeutic pharmaceutical agents". As used in this section, the term "diagnostic pharmaceutical agents" means those topically applied pharmaceuticals used for the purpose of conducting an examination upon the eye or adnexa, and the term "therapeutic pharmaceutical agents" means those pharmaceuticals, excluding injectable agents, used for the treatment of conditions or diseases of the eye or the adnexa.

2. No registered optometrist shall administer diagnostic pharmaceutical agents or therapeutic pharmaceutical agents in the practice of optometry unless such person submits to the state board of optometry evidence of satisfactory completion of: a course of instruction in

general and ocular pharmacology; which includes at least one hundred hours of approved, supervised, clinical training in the examination, diagnosis and treatment of conditions of the human eye and adnexa in a program supervised by a board-certified ophthalmologist; and such other educational requirements or examination as may be required by the board, and is certified by the board as qualified to administer diagnostic pharmaceutical agents and therapeutic pharmaceutical agents in the practice of optometry. An optometrist may not be certified by the board to administer therapeutic pharmaceutical agents unless the optometrist is certified to administer diagnostic pharmaceutical agents. The board shall not approve a course of instruction in general or ocular pharmacology unless it is taught by an institution utilizing both the didactic and clinical instruction in pharmacology and which is accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education or its successors and the transcript for the course of instruction is certified to the board by the institution as being comparable in content to those courses in general and ocular pharmacology required by other licensing boards whose licenses or registrants are permitted the administration of pharmaceutical agents in the course of their professional practice for either diagnostic or therapeutic purposes or both.

3. In issuing a certificate of registration or a renewal of a certificate of registration, the state board of optometry shall:

(1) State upon the certificate of an optometrist certified by the board to administer diagnostic pharmaceutical agents in the practice of optometry that the optometrist is so certified; and

(2) State upon the certificate of an optometrist certified by the board to administer therapeutic pharmaceutical agents in the practice of optometry that the optometrist is so certified.

4. Any provision of section 336.010 to the contrary notwithstanding, a registered optometrist who is examined and so certified by the state board of optometry in the administration of diagnostic pharmaceutical agents or therapeutic pharmaceutical agents may administer those agents for which he is certified in the practice of optometry. An optometrist's prescriptions for therapeutic pharmaceutical agents should be dispensed by a pharmacist licensed under chapter 338, RSMo. When therapeutic pharmaceutical agents are dispensed by an optometrist the provisions of section 338.059, RSMo, shall apply.

5. An optometrist certified in the administration of therapeutic pharmaceutical agents may:

(1) Administer and prescribe pharmaceutical agents, excluding injectable agents, for the diagnosis and treatment of conditions or diseases of the eye or adnexa; and

(2) Perform diagnostic procedures and order laboratory and imaging tests for the diagnosis of conditions or diseases of the eye or adnexa.

6. Each optometrist certified in the administration of therapeutic pharmaceutical agents shall, within one year of August 28, 1995, complete a course of instruction approved by the board that includes at least twenty-four hours of training in the treatment of glaucoma. The board shall not approve a course of instruction in the treatment of glaucoma unless it is taught by an institution that is accredited by a regional or professional accrediting organization that is recognized by the United States Department of Education or its successor and the content for the course of instruction is certified to the board by the institution as being comparable in the content to those courses in the treatment of glaucoma required by other licensing boards whose licensees or registrants are permitted to treat glaucoma in the course of their professional practice; except that, any optometrist initially licensed in Missouri after December 31, 1990, who had previously passed the examination of the National Board of Examiners in Optometry in the year 1990, or anytime after such year, shall be exempt from the requirement of completing the course of instruction in the treatment of glaucoma required by this subsection. Until December 31, 1999, as a condition for the annual renewal of the certificate of registration, each optometrist certified in the administration of therapeutic pharmaceutical agents shall, as a condition for the annual renewal of certification through December 31, 1999, complete a continuing course of instruction of at least six hours in the treatment of glaucoma as approved by the board; provided that, such

six hours may be credited against the initial course of at least twenty-four hours required by this section and against the educational optometric program of at least eight hours required by section 336.080.

7. An optometrist certified by the board in the administration of therapeutic pharmaceutical agents may remove superficial foreign bodies from the eye and adnexa. An optometrist may not perform surgery, including the use of lasers for treatment of any disease or condition or for the correction of refractive error. An optometrist certified to use pharmaceutical agents as provided in this section shall be held to the same standard of care in the use of such agents in the optometrist's diagnosis and treatment as are physicians, licensed by the Missouri state board of registration for the healing arts, who exercise that degree of skill and proficiency commonly exercised by ordinary, skillful, careful and prudent physicians and surgeons engaged in the practice of medicine.

8. Any optometrist authorized by the board to administer diagnostic pharmaceutical agents shall refer a patient to a physician licensed under chapter 334, RSMo, if an examination of the eyes indicates a condition, including reduced visual acuity, which requires medical treatment, further medical diagnosis, or further refraction. This referral is not required on known or previously diagnosed conditions. The record of the referral in the optometrist's notes shall have the standing of any business record. Any optometrist violating this section shall be subject to the provisions of section 336.110.**]** **Notwithstanding the provisions of subsection 1 of section 336.010, any optometrist who is not certified to use either diagnostic or therapeutic pharmaceutical agents shall continue to be prohibited from administering, dispensing, or prescribing the respective pharmaceutical agents unless the optometrist has completed an approved course of study and has been certified by the board. Such status shall be noted on the license at each renewal.**

2. Any optometrist authorized by the board to administer only diagnostic pharmaceutical agents shall refer a patient to a physician licensed under chapter 334, RSMo, if an examination of the eyes indicates a condition, including reduced visual acuity, which requires medical treatment, further medical diagnosis, or further refraction. This referral is not required on known or previously diagnosed conditions. The record of the referral in the optometrist's notes shall have the standing of any business record. Any optometrist violating this section shall be subject to the provisions of section 336.110.

3. An optometrist's prescriptions for therapeutic pharmaceutical agents shall be dispensed by a pharmacist licensed under chapter 338, RSMo. When therapeutic pharmaceutical agents are dispensed by an optometrist, the provisions of section 338.059, RSMo, shall apply.

4. An optometrist certified to use pharmaceutical agents shall be held to the standard of care in the use of pharmaceutical agents in the optometrist's diagnosis and treatment as are physicians licensed by the Missouri State Board of Registration for the Healing Arts, who exercise that degree of skill and learning ordinarily used under the same or similar circumstances by physicians and surgeons engaged in the practice of medicine.

5. The board may adopt reasonable rules and regulations providing for the examination and certification of optometrists who apply to the board for authority to administer and prescribe pharmaceutical agents in the practice of optometry.

336.225. ADVERTISING REQUIREMENTS. — **[**Notwithstanding any other provision of law, any written or broadcast advertising for eye exam services whether regional or national by any optical firm shall not be required to list the name of the optometrist in the advertisement provided those optometrists practicing under a trade name at a specific location shall be identified to any person by having the optometrist's name prominently displayed at such specific location. All eye exam services provided by any optical firm must be provided by a person in accordance with the provisions contained in section 336.030.**]** **Any optometrist or any person, firm, or corporation employing or associated with an optometrist may advertise the availability of**

optometric service. The optometrist shall be responsible for ensuring that his or her name is prominently displayed at all of his or her practice locations. All eye examination services shall be provided by a person in accordance with the provisions of section 336.030.

337.600. DEFINITIONS. — As used in sections 337.600 to 337.689, the following terms mean:

(1) **"Advanced macro social worker", the applications of social work theory, knowledge, methods, principles, values, and ethics; and the professional use of self to community and organizational systems, systemic and macrocosm issues, and other indirect nonclinical services; specialized knowledge and advanced practice skills in case management, information and referral, nonclinical assessments, counseling, outcome evaluation, mediation, nonclinical supervision, nonclinical consultation, expert testimony, education, outcome evaluation, research, advocacy, social planning and policy development, community organization, and the development, implementation and administration of policies, programs, and activities. A licensed advanced macro social worker may not treat mental or emotional disorders or provide psychotherapy without the direct supervision of a licensed clinical social worker; or diagnose a mental disorder;**

(2) "Clinical social work", the application of **social work theory, knowledge, values,** methods, principles, and techniques of case work, group work, client-centered advocacy, **[**community organization,**]** administration, **[**planning, evaluation,**]** consultation, research, psychotherapy and counseling methods and techniques to persons, families and groups in assessment, diagnosis, treatment, prevention and amelioration of mental and emotional conditions;

(3) "Committee", the state committee for social workers established in section 337.622;

[(2)**] (4)** "Department", the Missouri department of economic development;

[(3)**] (5)** "Director", the director of the division of professional registration **[**in the department of economic development**]**;

[(4)**] (6)** "Division", the division of professional registration;

[(5)**] (7)** "Independent practice", any practice of social workers outside of an organized setting such as a social, medical, or governmental agency in which a social worker assumes responsibility and accountability for services required;

(8) "Licensed advanced macro social worker", any person who offers to render services to individuals, groups, families, couples, organizations, institutions, communities, government agencies, corporations, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as an advanced macro social worker, and who holds a current valid license to practice as an advanced macro social worker;

(9) "Licensed baccalaureate social worker", any person who offers to render services to individuals, groups, organizations, institutions, corporations, government agencies, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a baccalaureate social worker, and who holds a current valid license to practice as a baccalaureate social worker;

[(6)**] (10)** "Licensed clinical social worker", any person who offers to render services to individuals, groups, organizations, institutions, corporations, government agencies**,** or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a clinical social worker, and who holds a current, valid license to practice as a clinical social worker;

(11) "Licensed master social worker", any person who offers to render services to individuals, groups, families, couples, organizations, institutions, communities, government agencies, corporations, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a master social worker, and who

holds a current valid license to practice as a master social worker. A licensed master social worker may not treat mental or emotional disorders, provide psychotherapy without the direct supervision of a licensed clinical social worker, or diagnose a mental disorder;

(12) "Master social work", the application of social work theory, knowledge, methods, and ethics and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, organizations, communities, institutions, government agencies, or corporations. The practice includes the applications of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, mediation, information and referral, counseling, client education, supervision, consultation, education, research, advocacy, community organization and development, planning, evaluation, implementation and administration of policies, programs, and activities. Under supervision as provided in this section, the practice of master social work may include the practices reserved to clinical social workers or advanced macro social workers;

(13) "Practice of advanced macro social work", rendering, offering to render, or supervising those who render to individuals, couples, families, groups, organizations, institutions, corporations, government agencies, communities, or the general public any service involving the application of methods, principles, and techniques of advanced practice macro social work;

(14) "Practice of baccalaureate social work", rendering, offering to render, or supervising those who render to individuals, families, groups, organizations, institutions, corporations, or the general public any service involving the application of methods, principles, and techniques of baccalaureate social work;

[(7)**]** **(15)** "Practice of clinical social work", rendering, offering to render, or supervising those who render to individuals, couples, groups, organizations, institutions, corporations, or the general public any service involving the application of methods, principles, and techniques of clinical social work;

(16) "Practice of master social work", rendering, offering to render, or supervising those who render to individuals, couples, families, groups, organizations, institutions, corporations, government agencies, communities, or the general public any service involving the application of methods, principles, and techniques of master social work;

[(8)**]** **(17)** "Provisional licensed clinical social worker", any person who is a graduate of an accredited school of social work and meets all requirements of a licensed clinical social worker, other than the supervised clinical social work experience prescribed by subdivision (2) of subsection 1 of section 337.615, and who is supervised by a person who is qualified to practice clinical social work, as defined by rule;

(18) "Qualified advanced macro supervisor", any licensed social worker who meets the qualifications of a qualified clinical supervisor or a licensed advanced macro social worker who has:

(a) Practiced in the field for which he or she is supervising the applicant for a minimum uninterrupted period of five years;

(b) Has successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social work; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

(19) "Qualified baccalaureate supervisor", any licensed social worker who meets the qualifications of a qualified clinical supervisor, qualified master supervisor, qualified advanced macro supervisor, or a licensed baccalaureate social worker who has:

(a) Practiced in the field for which he or she is supervising the applicant for a minimum uninterrupted period of five years;

(b) Has successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social workers; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

(20) "Qualified clinical supervisor", any licensed clinical social worker who has:

(a) Practiced in the field for which he or she is supervising the applicant uninterrupted since August 28, 2004, or a minimum of five years;

(b) Has successfully completed a minimum of sixteen hours of supervisory training from the Association of Social Work boards, the National Association of Social Workers, an accredited university, or a program approved by the state committee for social workers. All organizations providing the supervisory training shall adhere to the basic content and quality standards outlined by the state committee on social work; and

(c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by the state committee for social workers;

[(9)**]** **(21)** "Social worker", any individual that has:

(a) Received a baccalaureate or master's degree in social work from an accredited social work program approved by the council on social work education;

(b) Received a doctorate or Ph.D. in social work; or

(c) A current **[**baccalaureate or clinical**]** social worker license as set forth in sections 337.600 to 337.689.

337.603. LICENSE REQUIRED — EXEMPTIONS FROM LICENSURE. — No person shall use the title of "licensed clinical social worker", "clinical social worker" or "provisional licensed clinical social worker" **[**and**] , or** engage in the practice of clinical social work in this state**,** unless the person is licensed as required by the provisions of sections 337.600 to **[**337.639**]** **337.689**. Only individuals who are licensed clinical social workers shall practice clinical social work. Sections 337.600 to **[**337.639**]** **337.689** shall not apply to:

(1) Any person registered, certificated, or licensed by this state, another state, or any recognized national certification agent acceptable to the committee to practice any other occupation or profession while rendering services similar in nature to clinical social work in the performance of the occupation or profession which the person is registered, certificated, or licensed; and

(2) The practice of any social worker who is employed by any agency or department of the state of Missouri while discharging the person's duties in that capacity.

337.604. TITLE OF SOCIAL WORKER, REQUIREMENTS TO USE TITLE. — 1. No person shall hold himself or herself out to be a "social worker" unless such person has:

(1) Received a baccalaureate or master's degree in social work from an accredited social work program approved by the council on social work education;

(2) Received a doctorate or Ph.D. in social work; or

(3) A current **[**baccalaureate or clinical**]** social worker license as set forth in sections 337.600 to 337.689.

2. No government entities, public or private agencies or organizations in the state shall use the title "social worker" or any form of the title for volunteer or employment positions or within contracts for services, documents, manuals, or reference material effective January 1, 2004, unless the volunteers or employees in those positions meet the criteria set forth in subdivision **[**(8)**]** **(17)** of section 337.600 or subsection 1 of this section.

337.612. APPLICATIONS, CONTENTS, FEE — FUND ESTABLISHED — RENEWAL, FEE — LOST CERTIFICATE, HOW REPLACED. — 1. Applications for licensure as a clinical social worker**, baccalaureate social worker, advanced macro social worker or master social worker** shall be in writing, submitted to the committee on forms prescribed by the committee and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience, and such other information as the committee may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the committee.

2. The committee shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the committee with the information required for licensure, or to pay the licensure fee after such notice shall effect a revocation of the license after a period of sixty days from the licensure renewal date. The license shall be restored if, within two years of the licensure date, the applicant provides written application and the payment of the licensure fee and a delinquency fee.

3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the committee, upon payment of a fee.

4. The committee shall set the amount of the fees which sections 337.600 to **[**337.639**]** **337.689** authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 337.600 to **[**337.639**]** **337.689**. All fees provided for in sections 337.600 to **[**337.639**]** **337.689** shall be collected by the director who shall deposit the same with the state treasurer in a fund to be known as the "Clinical Social Workers Fund". **After August 28, 2007, the "Clinical Social Workers Fund" shall be called the "Licensed Social Workers Fund" and after such date all references in state law to the "Clinical Social Workers Fund" shall be considered references to the "Licensed Social Workers Fund".**

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriations from the clinical social workers fund for the preceding fiscal year or, if the committee requires by rule renewal less frequently than yearly, then three times the appropriation from the committee's fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the clinical social workers fund for the preceding fiscal year.

337.615. EDUCATION, EXPERIENCE REQUIREMENTS — RECIPROCITY — LICENSES ISSUED, WHEN. — 1. Each applicant for licensure as a clinical social worker shall furnish evidence to the committee that:

(1) The applicant has a master's degree from a college or university program of social work accredited by the council of social work education or a doctorate degree from a school of social work acceptable to the committee;

(2) The applicant has completed three thousand hours of supervised clinical experience with a **[**licensed clinical social worker acceptable to the committee, as defined by rule,**]** **"qualified clinical supervisor", as defined in section 337.600,** in no less than twenty-four months and no more than forty-eight consecutive calendar months;

(3) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be promulgated by rule of the committee;

(4) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. Any person holding a current license, certificate of registration, or permit from another state or territory of the United States or the District of Columbia to practice clinical social work who has had no disciplinary action taken against the license, certificate of registration, or permit for the preceding five years may be granted a license to practice clinical social work in this state if the person meets one of the following criteria:

(1) Has received a masters or doctoral degree from a college or university program of social work accredited by the council of social work education and has been licensed to practice clinical social work for the preceding five years; or

(2) Is currently licensed or certified as a clinical social worker in another state, territory of the United States, or the District of Columbia having substantially the same requirements as this state for clinical social workers.

3. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.600 to **[**337.639**]** **337.689** and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section. The committee shall issue a provisional clinical social worker license to any applicant who meets all requirements of subdivisions (1), (3) and (4) of subsection 1 of this section, but who has not completed the twenty-four months of supervised clinical experience required by subdivision (2) of subsection 1 of this section, and such applicant may reapply for licensure as a clinical social worker upon completion of the twenty-four months of supervised clinical experience.

337.618. LICENSE EXPIRATION, RENEWAL, FEES, CONTINUING EDUCATION REQUIREMENTS. — Each license issued pursuant to the provisions of sections 337.600 to **[**337.639**]** **337.689** shall expire on a renewal date established by the director. The term of licensure shall be twenty-four months. The committee shall require a minimum number of thirty clock hours of continuing education for renewal of a license issued pursuant to sections 337.600 to **[**337.639**]** **337.689**. The committee shall renew any license, other than a provisional license, upon application for a renewal, completion of the required continuing education hours and upon payment of the fee established by the committee pursuant to the provisions of section 337.612. As provided by rule, the board may waive or extend the time requirements for completion of continuing education for reasons related to health, military service, foreign residency, or for other good cause. All requests for waivers or extensions of time shall be made in writing and submitted to the board before the renewal date.

337.622. STATE COMMITTEE FOR SOCIAL WORKERS — MEMBERSHIP, REMOVAL AND VACANCIES. — 1. There is hereby established the "State Committee for Social Workers", which shall guide, advise, and make recommendations to the division and fulfill other responsibilities designated by sections 337.600 to **[**337.649 and sections 337.650 to**]** 337.689. The committee shall approve any examination required by sections 337.600 to **[**337.649 and sections 337.650 to**]** 337.689 and shall assist the division in carrying out the provisions of sections 337.600 to **[**337.649 and sections 337.650 to**]** 337.689.

2. The committee shall consist of **[**nine**]** **ten** members, including a public member appointed by the governor with the advice and consent of the senate. Each member of the committee shall be a citizen of the United States and a resident of this state. The committee shall consist of six licensed clinical social workers, **[**two**]** **one licensed master social worker, one** licensed baccalaureate social workers**, one licensed advanced macro social worker,** and one voting public member. At least two committee members shall be involved in the private practice of clinical social work. **[**Any person who is a member of any clinical social worker advisory committee appointed by the director of the division of professional registration shall be eligible

for appointment to the state committee for social work on August 28, 1997.**]** The governor shall endeavor to appoint members from different geographic regions of the state and with regard to the pattern of distribution of social workers in the state. The term of office for committee members shall be four years and no committee member shall serve more than ten years. **[**Of the members first appointed, the governor shall appoint three members, one of whom shall be the public member, whose terms shall be four years; three members whose terms shall be three years; two members whose terms shall be two years; and one member whose term shall be one year.**]** The president of the National Association of Social Workers Missouri Chapter in office at the time shall, at least ninety days prior to the expiration of a term of a member of a clinical social worker**, master social worker, advanced macro social worker,** or baccalaureate social worker committee member or as soon as feasible after a vacancy on the committee otherwise occurs, submit to the director of the division of professional registration a list of five **[**clinical**]** social workers qualified **[**or five baccalaureate social workers**]** and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons in each category so listed, and with the list so submitted, the president of the National Association of Social Workers Missouri Chapter shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

3. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

4. Notwithstanding any other provision of law to the contrary, any appointed member of the committee shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for committee business plus each member of the committee shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties. The director of the division of professional registration shall establish by rule guidelines for payment. All staff for the committee shall be provided by the division.

5. The committee shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The committee may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting must be given to each member at least three days prior to the date of the meeting. A quorum of the board shall consist of a majority of its members.

6. The governor may remove a committee member for misconduct, incompetency or neglect of the member's official duties after giving the committee member written notice of the charges against such member and an opportunity to be heard thereon.

7. The public member shall be at the time of such 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 sections 337.600 to **[**337.649 or sections 337.650 to**]** 337.689, 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 sections 337.600 to **[**337.649 or sections 337.650 to**]** 337.689, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 337.600 to **[**337.649**] 337.689**. 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.

337.627. RULES AND REGULATIONS, PROCEDURE. — 1. The committee shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 337.600 to **[**337.639**] 337.689** and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 337.600 to **[**337.639**] 337.689**;

(3) The characteristics of "supervised clinical experience" **[**as that term is used in section 337.615**] , "supervised master experience", "supervised advanced macro experience", and "supervised baccalaureate experience"**;

(4) The standards and methods to be used in assessing competency as a licensed clinical social worker**, licensed master social worker, licensed advanced macro social worker, and licensed baccalaureate social worker, including the requirement for continuing education hours**;

(5) Establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring pursuant to the provisions of sections 337.600 to **[**337.639**] 337.689**;

(6) Development of an appeal procedure for the review of decisions and rules of administrative agencies existing pursuant to the constitution or laws of this state;

(7) Establishment of a policy and procedure for reciprocity with other states, including states which do not have clinical**, master, advanced macro, or baccalaureate** social worker licensing laws or states whose licensing laws are not substantially the same as those of this state; and

(8) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.600 to **[**337.639**] 337.689**.

2. **[**No rule or portion of a rule promulgated pursuant to the authority of sections 337.600 to 337.639 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.**] Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.**

337.630. GROUNDS FOR REFUSAL, REVOCATION OR SUSPENSION OF LICENSE — CIVIL IMMUNITY, WHEN — PROCEDURE UPON FILING COMPLAINT. — 1. The committee may refuse to issue or renew any license required by the provisions of sections 337.600 to **[**337.639**] 337.689** for one or any combination of causes stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 337.600 to **[**337.639**] 337.689** or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of **[**clinical**]** social work **licensed under this chapter**; except that the fact that a person has undergone treatment for past substance or alcohol abuse and/or has participated in a recovery program, shall not by itself be cause for refusal to issue or renew a license;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a **[**clinical**]** social worker **licensed under this chapter**; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of sections 337.600 to **[**337.639**]** **337.689** or in obtaining permission to take any examination given or required pursuant to the provisions of sections 337.600 to **[**337.639**]** **337.689**;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a **[**clinical**]** social worker licensed pursuant to this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.600 to **[**337.639**]** **337.689**, or of any lawful rule or regulation adopted pursuant to sections 337.600 to **[**337.639**]** **337.689**;

(7) Impersonation of any person holding a license or allowing any person to use the person's license or diploma from any school;

(8) Revocation or suspension of a license or other right to practice **[**clinical**]** social work licensed pursuant to this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Final adjudication as incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice **[**clinical**]** social work licensed pursuant to this chapter who is not licensed and currently eligible to practice pursuant to the provisions of sections 337.600 to **[**337.639**]** **337.689**;

(11) Obtaining a license based upon a material mistake of fact;

(12) Failure to display a valid license if so required by sections 337.600 to **[**337.639**]** **337.689** or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Being guilty of unethical conduct as defined in the ethical standards for clinical social workers adopted by the committee by rule and filed with the secretary of state.

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 337.600 to **[**337.639**]** **337.689** and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may censure or place the person named in the complaint on probation on such terms and conditions as the committee deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license.

337.636. PRIVILEGED COMMUNICATIONS, WHEN. — Persons licensed under the provisions of sections 337.600 to **[**337.639**]** **337.689** may not disclose any information acquired from persons consulting them in their professional capacity, or be compelled to disclose such information except:

(1) With the written consent of the client, or in the case of the client's death or disability, the client's personal representative or other person authorized to sue, or the beneficiary of an insurance policy on the client's life, health or physical condition;

(2) When such information pertains to a criminal act;

(3) When the person is a child under the age of eighteen years and the information acquired by the licensee indicated that the child was the victim of a crime;

(4) When the person waives the privilege by bringing charges against the licensee;

(5) When the licensee is called upon to testify in any court or administrative hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of clients of the licensee; or

(6) When the licensee is collaborating or consulting with professional colleagues or an administrative superior on behalf of the client.

337.643. LICENSURE REQUIRED FOR USE OF TITLE — PRACTICE AUTHORIZED. — 1. No person shall use the title of licensed master social worker and engage in the practice of master social work in this state unless the person is licensed as required by the provisions of this section and section 337.644.

2. A licensed master social worker shall be deemed qualified to practice the applications of social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, organizations, and communities. Master social work practice includes the applications of specialized knowledge and advanced practice skills in the management, information and referral, counseling, supervision, consultation, education, research, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities. Under supervision as provided in sections 337.600 to 337.689, the practice of master social work may include the practices reserved to clinical social workers or advanced macro social workers.

337.644. APPLICATION, CONTENTS — RECIPROCITY — ISSUANCE OF LICENSE, WHEN. — 1. Each applicant for licensure as a master social worker shall furnish evidence to the committee that:

(1) The applicant has a master's or doctorate degree in social work from an accredited social work degree program approved by the council of social work education;

(2) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be determined by the state committee for social workers;

(3) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure;

(4) The applicant has submitted a written application on forms prescribed by the state board;

(5) The applicant has submitted the required licensing fee, as determined by the committee.

2. Any applicant who answers in the affirmative to any question on the application that relates to possible grounds for denial of licensure under section 337.630 shall submit a sworn affidavit setting forth in detail the facts which explain such answer and copies of appropriate documents related to such answer.

3. Any person holding a valid unrevoked and unexpired license, certificate, or registration from another state or territory of the United States having substantially the same requirements as this state for master social workers may be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee under section 337.612.

4. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.600 to 337.689 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subsection 1 of this section or with the provisions of subsection 3 of this section. The license shall refer to the individual as a licensed master social worker and shall recognize that individual's right to practice licensed master social work as defined in section 337.600.

337.645. APPLICATION INFORMATION REQUIRED — ISSUANCE OF LICENSE, WHEN. — 1. Each applicant for licensure as an advanced macro social worker shall furnish evidence to the committee that:

(1) The applicant has a master's degree from a college or university program of social work accredited by the council of social work education or a doctorate degree from a school of social work acceptable to the committee;

(2) The applicant has completed three thousand hours of supervised advanced macro experience with a "qualified advanced macro supervisor" as defined in section 337.600 in no less than twenty-four months and no more than forty-eight consecutive calendar months;

(3) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be promulgated by rule of the committee;

(4) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. Any person holding a current license, certificate of registration, or permit from another state or territory of the United States or the District of Columbia to practice advanced macro social work who has had no disciplinary action taken against the license, certificate of registration, or permit for the preceding five years may be granted a license to practice advanced macro social work in this state if the person meets one of the following criteria:

(1) Has received a master's or doctoral degree from a college or university program of social work accredited by the council of social work education and has been licensed to practice advanced macro social work for the preceding five years; or

(2) Is currently licensed or certified as an advanced macro social worker in another state, territory of the United States, or the District of Columbia having substantially the same requirements as this state for advanced macro social workers.

3. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.600 to 337.689 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section.

337.646. LICENSE REQUIRED FOR USE OF TITLE. — 1. No person shall use the title of licensed advanced macro social worker and engage in the practice of advanced macro social work in this state unless the person is licensed as required by the provisions of section 337.645.

337.653. BACCALAUREATE SOCIAL WORKERS, LICENSE REQUIRED, PERMITTED ACTIVITIES. — 1. No person shall use the title of "licensed baccalaureate social worker" **[**or "provisional licensed baccalaureate social worker"**]** and engage in the practice of baccalaureate social work in this state unless the person is licensed as required by the provisions of sections **[**337.650**]** **337.600** to 337.689.

2. A licensed baccalaureate social worker shall be deemed qualified to practice the following:

(1) Engage in assessment and evaluation from a generalist perspective, excluding the diagnosis and treatment of mental illness and emotional disorders;

(2) Conduct basic data gathering of records and social problems of individuals, groups, families and communities, assess such data, and formulate and implement a plan to achieve specific goals;

(3) Serve as an advocate for clients, families, groups or communities for the purpose of achieving specific goals;

(4) Counsel, excluding psychotherapy; however, counseling shall be defined as providing support, direction, and guidance to clients by assisting them in successfully solving complex social problems;

(5) Perform crisis intervention, screening and resolution, excluding the use of psychotherapeutic techniques;

(6) Be a community supporter, organizer, planner or administrator for a social service program;

(7) Conduct crisis planning ranging from disaster relief planning for communities to helping individuals prepare for the death or disability of family members;

(8) Inform and refer clients to other professional services;

(9) Perform case management and outreach, including but not limited to planning, managing, directing or coordinating social services; and

(10) Engage in the training and education of social work students from an accredited institution and supervise other licensed baccalaureate social workers.

3. **[**A**] If the licensed baccalaureate social worker has completed three thousand hours of supervised baccalaureate experience with a qualified baccalaureate supervisor in no less than twenty-four months and no more than forty-eight consecutive calendar months, the** licensed baccalaureate social worker may engage in the independent practice of baccalaureate social work as defined in **[**subdivision (6) of**]** section **[**337.650**] 337.600** and subdivisions (1) to (10) of subsection 2 of this section. **Upon demonstrating the successful completion of supervised experience, the state committee for social workers shall provide the licensee with a certificate clearly stating the individual's qualification to practice independently with the words "independent practice" or "IP" next to his or her licensure.**

337.665. INFORMATION REQUIRED TO BE FURNISHED COMMITTEE — RECIPROCITY, WHEN — CERTIFICATE TO PRACTICE INDEPENDENTLY ISSUED, WHEN. — 1. Each applicant for licensure as a baccalaureate social worker shall furnish evidence to the committee that:

(1) The applicant has a baccalaureate degree in social work from an accredited social work degree program approved by the council of social work education;

(2) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be determined by the state committee for social work;

(3) **[**The applicant has completed three thousand hours of supervised baccalaureate experience with a licensed clinical social worker or licensed baccalaureate social worker in no less than twenty-four and no more than forty-eight consecutive calendar months;

(4)**]** The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure;

[(5)**] (4)** The applicant has submitted a written application on forms prescribed by the state board;

[(6)**] (5)** The applicant has submitted the required licensing fee, as determined by the **[**division**] committee**.

2. Any applicant who answers in the affirmative to any question on the application that relates to possible grounds for denial of licensure pursuant to section **[**337.680**] 337.630** shall submit a sworn affidavit setting forth in detail the facts which explain such answer and copies of appropriate documents related to such answer.

3. Any person holding a valid unrevoked and unexpired license, certificate or registration from another state or territory of the United States having substantially the same requirements as this state for baccalaureate social workers may be granted a license to engage in the person's

occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section **[**337.662**]** **337.612**.

4. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections **[**337.650**]** **337.600** to 337.689 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subsection 1 of this section or with the provisions of subsection 2 of this section. **[**The committee shall issue a one-time provisional baccalaureate social worker license to any applicant who meets all requirements of subdivisions (1), (2), (4), (5) and (6) of subsection 1 of this section, but who has not completed the supervised baccalaureate experience required by subdivision (3) of subsection 1 of this section, and such applicant may apply for licensure as a baccalaureate social worker upon completion of the supervised baccalaureate experience.**]**

5. The committee shall issue a certificate to practice independently under subsection 3 of section 337.653 to any licensed baccalaureate social worker who has satisfactorily completed three thousand hours of supervised experience with a qualified baccalaureate supervisor in no less than twenty-four months and no more than forty-eight consecutive calendar months.

337.689. LICENSEES MAY BE COMPELLED TO TESTIFY. — Nothing in sections **[**337.650**]** **337.600** to 337.689 shall be construed to prohibit any person licensed pursuant to the provisions of sections **[**337.650**]** **337.600** to 337.689 from testifying in court hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of children or any dependent person, or from seeking collaboration or consultation with professional colleagues or administrative supervisors on behalf of the client.

337.700. DEFINITIONS. — As used in sections 337.700 to 337.739, the following terms mean:

(1) "Committee", the state committee for family and marital therapists;

(2) "Department", the Missouri department of economic development;

(3) "Director", the director of the division of professional registration in the department of economic development;

(4) "Division", the division of professional registration;

(5) "Fund", the marital and family therapists' fund created in section 337.712;

(6) "Licensed marital and family therapist", a person to whom a license has been issued pursuant to the provisions of sections 337.700 to 337.739, whose license is in force and not suspended or revoked;

(7) "Marital and family therapy", the use of scientific and applied marriage and family theories, methods and procedures for the purpose of describing, **diagnosing,** evaluating and modifying marital, family and individual behavior within the context of marital and family systems, including the context of marital formation and dissolution. Marriage and family therapy is based on systems theories, marriage and family development, normal and dysfunctional behavior, human sexuality and psychotherapeutic, marital and family therapy theories and techniques and includes the use of marriage and family therapy theories and techniques in the **diagnosis,** evaluation, assessment and treatment of intrapersonal or interpersonal dysfunctions within the context of marriage and family systems. Marriage and family therapy may also include clinical research into more effective methods for the treatment and prevention of the above-named conditions;

(8) "Practice of marital and family therapy", the rendering of professional marital and family therapy services to individuals, family groups and marital pairs, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise.

337.715. QUALIFICATIONS FOR LICENSURE, EXCEPTIONS. — 1. Each applicant for licensure as a marital and family therapist shall furnish evidence to the division that:

(1) The applicant has a master's degree or a doctoral degree in marital and family therapy, or its equivalent, from an acceptable educational institution accredited by a regional accrediting body or accredited by an accrediting body which has been approved by the United States Department of Education;

(2) The applicant has twenty-four months of postgraduate supervised clinical experience acceptable to the division, as the division determines by rule;

(3) **After August 28, 2008, the applicant shall have completed a minimum of three semester hours of graduate level course work in diagnostic systems either within the curriculum leading to a degree as defined in subdivision (1) of this subsection or as post master's graduate level course work. Each applicant shall demonstrate supervision of diagnosis as a core component of the postgraduate supervised clinical experience as defined in subdivision (2) of this subsection;**

(4) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications research and its interpretation and professional affairs and ethics;

[(4)**]** **(5)** The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. **[**A licensed marriage and family therapist who has had no violations and no suspensions and no revocation of a license to practice marriage and family therapy in any jurisdiction may receive a license in Missouri provided said marriage and family therapist passes a written examination on Missouri laws and regulations governing the practice of professional counseling as defined in section 337.700, and meets one of the following criteria:

(1) Is a member in good standing and holds a certification from the Academy of Marriage and Family Therapists;

(2) Is currently licensed or certified as a licensed marriage and family therapist in another state, territory of the United States, or the District of Columbia; and

(a) Meets the educational standards set forth in 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 marriage and family therapist 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.**]** **Any person otherwise qualified for licensure holding a current license, certificate of registration, or permit from another state or territory of the United States or the District of Columbia to practice marriage and family therapy may be granted a license without examination to engage in the practice of marital and family therapy in this state upon application to the state committee, payment of the required fee as established by the state committee, and satisfaction of the following:**

(1) Determination by the state committee that the requirements of the other state or territory are substantially the same as Missouri;

(2) Verification by the applicant's licensing entity that the applicant has a current license; and

(3) Consent by the applicant to examination of any disciplinary history in any state.

3. The **[**division**]** **state committee** shall issue a license to each person who files an application and fee as required by the provisions of sections 337.700 to 337.739**[**, and who furnishes evidence satisfactory to the division that the applicant has complied with the provisions of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section.**]**

337.718. LICENSE EXPIRATION, RENEWAL FEE — TEMPORARY PERMITS. — 1. Each license issued pursuant to the provisions of sections 337.700 to 337.739 shall expire on a renewal date established by the director. The term of licensure shall be twenty-four months; however, the director may establish a shorter term for the first licenses issued pursuant to sections 337.700 to 337.739. The division shall renew any license upon application for a renewal and upon payment of the fee established by the division pursuant to the provisions of section 337.712. **Effective August 28, 2008, as a prerequisite for renewal, each licensee shall furnish to the committee satisfactory evidence of the completion of the requisite number of hours of continuing education as defined by rule, which shall be no more than forty contact hours biennially. The continuing education requirements may be waived by the committee upon presentation to the committee of satisfactory evidence of illness or for other good cause.**

2. The division may issue temporary permits to practice under extenuating circumstances as determined by the division and defined by rule.

338.220. OPERATION OF PHARMACY WITHOUT PERMIT OR LICENSE UNLAWFUL — APPLICATION FOR PERMIT, CLASSIFICATIONS, FEE — DURATION OF PERMIT. — 1. It shall be unlawful for any person, copartnership, association, corporation or any other business entity to open, establish, operate, or maintain any pharmacy as defined by statute without first obtaining a permit or license to do so from the Missouri board of pharmacy. The following classes of pharmacy permits or licenses are hereby established:

(1) Class A: Community/ambulatory;
(2) Class B: Hospital outpatient pharmacy;
(3) Class C: Long-term care;
(4) Class D: Nonsterile compounding;
(5) Class E: Radio pharmaceutical;
(6) Class F: Renal dialysis;
(7) Class G: Medical gas;
(8) Class H: Sterile product compounding;
(9) Class I: Consultant services;
(10) Class J: Shared service;
(11) Class K: Internet**;**
(12) Class L: Veterinary.

2. Application for such permit or license shall be made upon a form furnished to the applicant; shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration; and shall be accompanied by a permit or license fee. The permit or license issued shall be renewable upon payment of a renewal fee. Separate applications shall be made and separate permits or licenses required for each pharmacy opened, established, operated, or maintained by the same owner.

3. All permits, licenses or renewal fees collected pursuant to the provisions of sections 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general assembly.

4. Class L: Veterinary permit shall not be construed to prohibit or interfere with any legally registered practitioner of veterinary medicine in the compounding or dispensing of their own prescriptions.

5. Notwithstanding any other law to the contrary, the provisions of this section shall not apply to the sale, dispensing, or filling of a pharmaceutical product or drug used for treating animals.

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**, or the imposition of a civil penalty by the commission not to exceed two thousand five hundred dollars for each offense. Each day of a continued violation shall constitute a separate offense**.

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, entered a plea of nolo contendere 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 administrative hearing commission. Notice of such appeal must be received by the administrative hearing commission within ninety days of mailing, by certified mail, the notice of revocation. Failure of a person whose license was revoked to notify the administrative hearing 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**]** **commission**.

339.200. PROHIBITED ACTS — INVESTIGATION MAY BE INITIATED, WHEN, PROCEDURE. — 1. It shall be unlawful for any person not holding the required license from the commission to perform any act for which a license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission may cause a complaint to be filed with the administrative hearing commission, as provided in chapter 621, RSMo, against any unlicensed person who:

(1) Engages in or offers to perform any act for which a license is required by sections 339.010 to 339.180 and sections 339.710 to 339.860; or

(2) Uses or employs titles defined and protected by this chapter, or implies authorization to provide or offer professional services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person holds any license required by sections 339.010 to 339.180 and sections 339.710 to 339.860.

2. When reviewing complaints against unlicensed persons, the commission may initiate an investigation and take all measures necessary to find the facts of any potential violation, including issuing subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence.

3. If the commission files a complaint with the administrative hearing commission, 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 1 of this section for action are met, the commission may, either singularly or in combination with other provisions of this chapter, impose a civil penalty against the person named in the complaint in an amount not to exceed the limit authorized by section 339.205.

339.205. CIVIL PENALTY MAY BE IMPOSED, WHEN — AMOUNT, LIMIT, FACTORS — SETTLEMENT PROCEDURES. — 1. In actions against unlicensed persons or disciplinary actions against licensed persons, the commission may issue an order imposing a civil penalty. Such penalty shall not be imposed until the findings of facts and conclusions of law by the administrative hearing commission have been delivered to the commission in accordance with section 621.110, RSMo. Further, no civil penalty shall be assessed until a formal meeting and vote by the board has been taken to impose such a penalty.

2. Any civil penalty imposed by the commission shall not exceed two thousand five hundred dollars for each offense. Each day of a continued violation constitutes a separate offense, with a maximum penalty of twenty-five thousand dollars. In determining the amount of penalty to be imposed, the commission may consider any of the following:

(1) Whether the amount imposed will be a substantial deterrent to the violation;

(2) The circumstances leading to the violation;

(3) The severity of the violation and the risk of harm to the public;

(4) The economic benefits gained by the violator as a result of noncompliance; and

(5) The interest of the public.

3. Any final order imposing a civil penalty is subject to judicial review upon the filing of a petition under section 536.100, RSMo, by any person subject to the penalty.

4. Payment of a civil penalty shall be made within sixty days of filing the order, or if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the commission. If the penalty is not timely paid, the commission shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs and a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

5. An action to enforce an order under this section may be joined with an action for an injunction.

6. Any offer of settlement to resolve a civil penalty under this section shall be in writing, state that an action for imposition of a civil penalty may be initiated by the attorney general representing the commission under this section, and identify any dollar amount as an offer of settlement, which shall be negotiated in good faith through conference, conciliation, and persuasion.

7. Failure to pay a civil penalty by any person licensed under this chapter shall be grounds for denying, disciplining or refusing to renew or reinstate a license or certificate of authority.

8. Penalties collected under this section shall be handled in accordance with section 7 of article IX of the Missouri Constitution. Such penalties shall not be considered a charitable contribution for tax purposes.

339.513. APPLICATIONS FOR EXAMINATIONS, ORIGINAL CERTIFICATION, LICENSURE AND RENEWALS, REQUIREMENTS, CONTENTS, FEES, HOW SET — FUND ESTABLISHED — SIGNED COMPLIANCE PLEDGE, REQUIRED. — 1. Applications for examination, original certification and licensure, and renewal certification and licensure shall be made in writing to the commission on forms provided by the commission. The application shall specify the classification of certification, or licensure, for which application is being made.

2. Appropriate fees shall accompany all applications for examination, original certification or licensure, and renewal certification or licensure; provided that such fees shall be in amounts set by the commission in order to offset the cost and expense of administering sections 339.500 to 339.549, and in amounts to be determined by the commission with reference to the requirements of Section 1109 of the United States Public Law 101-73, as later codified and as may be amended. All fees collected pursuant to this subsection shall be collected by the commission and deposited with the state treasurer into a fund to be known as the "Missouri Real Estate Appraisers Fund". **[**The provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund shall not apply to the Missouri real estate appraisers fund.**]** **The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.**

3. At the time of filing an application for certification or licensure, each applicant shall sign a pledge to comply with the standards set forth in sections 339.500 to 339.549 and state that he or she understands the types of misconduct for which disciplinary proceedings may be initiated against a state-certified real estate appraiser or a state-licensed real estate appraiser. 344.020. No person shall act or serve in the capacity of a nursing home administrator without first procuring a license from the Missouri board of nursing home administrators as provided in sections 344.010 to **[**344.100**]** **344.108**. The board may issue a separate license to administrators of assisted living facilities, as defined in section 198.006, RSMo. Any individual who receives a license to operate an assisted living facility is not thereby authorized to operate any intermediate care facility or skilled nursing facility as those terms are defined in section 198.006, RSMo.

344.030. LICENSE, QUALIFICATIONS, FEE, EXAMINATION, TERM — RECIPROCITY — EMERGENCY LICENSE. — 1. An applicant for an initial license shall file a completed application with the board on a form provided by the board, accompanied by an application fee **[**of one hundred dollars**]** **as provided by rule** payable to the **[**director of revenue**]** **department of health and senior services**. Information provided in the application **[**shall be given under oath subject to the penalties for making a false affidavit**]** **attested by signature to be true and correct to the best of the applicant's knowledge and belief**.

2. No initial license shall be issued to a person as a nursing home administrator unless:

(1) The applicant provides the board satisfactory proof that the applicant is twenty-one years of age or over, of good moral character and a high school graduate or equivalent;

(2) The applicant provides the board satisfactory proof that the applicant has had a minimum of three years' experience in health care administration or two years of postsecondary education in health care administration or has satisfactorily completed a course of instruction and training prescribed by the board, which includes instruction in the needs properly to be served by nursing homes, the protection of the interests of residents therein, and the elements of good nursing home administration, or has presented evidence satisfactory to the board of sufficient education, training, or experience in the foregoing fields to administer, supervise and manage a nursing home; and

(3) The applicant passes the **[**written examination**]** **examinations** administered by the board. If an applicant fails to make a passing grade on **[**the examination**]** **either of the examinations** such applicant may make application for reexamination on a form furnished by the board and may be retested **[**at the next regularly scheduled examination**]**. If an applicant fails **[**the examination**]** **either of the examinations** a third time, the applicant shall be required to complete a course of instruction prescribed and approved by the board **[**before the applicant may reapply for examination**]**. **After completion of the board-prescribed course of instruction, the applicant may reapply for examination. With regard to the national examination required for licensure, no examination scores from other states shall be recognized by the board after the applicant has failed his or her third attempt at the national examination.** There shall be a separate, nonrefundable fee for each examination. The board shall set the amount of the fee for examination by rules and regulations promulgated pursuant to section 536.021, RSMo. The fee shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the examination.

3. The board may issue a license through reciprocity to any person who is regularly licensed as a nursing home administrator in any other state, territory, or the District of Columbia, if the regulations for securing such license are equivalent to those required in the state of Missouri. However, no license by reciprocity shall be issued until the applicant passes a special examination approved by the board, which will examine the applicant's knowledge of specific provisions of Missouri statutes and regulations pertaining to nursing homes. The applicant shall furnish satisfactory evidence that such applicant is of good moral character and has acted in the capacity of a nursing home administrator in such state, territory, or the District of Columbia, at least one year after the securing of the license. The board, in its discretion, may enter into written reciprocal agreements pursuant to this section with other states which have equivalent laws and regulations.

4. Nothing in sections 344.010 to **[**344.100**]** **344.108**, or the rules or regulations thereunder shall be construed to require an applicant for a license as a nursing home administrator, who is employed by an institution listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., to administer institutions certified by such commission for the care and treatment of the sick in accordance with the creed or tenets of a recognized church or religious denomination, to demonstrate proficiency in any techniques or to meet any educational qualifications or standards not in accord with the remedial care and treatment provided in such institutions. The applicant's license shall be endorsed to confine the applicant's practice to such institutions.

5. The board may issue a temporary emergency license for a period not to exceed ninety days to a person twenty-one years of age or over, of good moral character and a high school graduate or equivalent to serve as an acting nursing home administrator, provided such person is replacing a licensed nursing home administrator who has died, has been removed or has vacated the nursing home administrator's position. No temporary emergency license may be issued to a person who has had a nursing home administrator's license denied, suspended or revoked. A temporary emergency license may be renewed for one additional ninety-day period upon a showing that the person seeking the renewal of a temporary emergency license meets the qualifications for licensure and has filed an application for a regular license, accompanied by the application fee, and the **[**examination has not yet been given**]** **applicant has taken the examination or examinations but the results have not been received by the board**. No temporary emergency license may be renewed more than one time.

344.040. LICENSE RENEWAL, APPLICATION FOR, FEE — LATE RENEWAL, EFFECT — ADDITIONAL DISCIPLINARY ACTION AUTHORIZED, WHEN. — 1. Every license issued under this chapter shall expire on June thirtieth of the year following the year of issuance and every other year thereafter, provided that licenses issued or renewed during the year 2006 may be issued or renewed by the board for a period of either one or two years, as provided by rule.

Licensees seeking renewal shall, during the month of May of the year of renewal, file an application for renewal on forms furnished by the board, which shall include evidence satisfactory to the board of completion of the approved continuing education hours required by the board, and shall be accompanied by a renewal fee as provided by rule payable to the department of health and senior services.

2. Upon receipt of an incomplete application for renewal, the board shall grant the applicant a temporary permit which shall be in effect for thirty days. The applicant is required to submit the required documentation or fee within the thirty-day period, or the board may refuse to renew his **or her** application. The thirty-day period can be extended for good cause shown for an additional thirty days. Upon receipt of the approved continuing education credits or other required documentation or fee within the appropriate time period, the board shall issue a license.

3. The board shall renew the license of an applicant who has met all of the requirements for renewal.

4. As a requirement for renewal of license, the board may require not more than forty-eight clock hours of continuing education a year. The continuing education provided for under this section shall be approved by the board. There shall be a separate, nonrefundable fee for each single offering provider. The board shall set the amount of fee for any single offering provided by rules and regulations promulgated pursuant to section 536.021, RSMo. The fee shall be set at a level to produce revenue which shall not substantially exceed the cost and expense in administering and reviewing any single offering.

5. By April first of each year, the board shall mail an application for renewal of license to every person whose license shall be renewed during the current year. The applicant must submit such information as will enable the board to determine if the applicant's license should be renewed. Information provided in the application shall be **[**given under oath**]** **attested by signature to be true and correct to the best of the applicant's knowledge and belief**.

6. Any licensee who fails to apply to renew his **or her** license by June thirtieth of the licensee's year of renewal may be relicensed by the board if he meets the requirements set forth by the board pursuant to sections 344.010 to **[**344.100**]** **344.108** and pays the renewal fee required by rule, plus a penalty of twenty-five dollars. No action shall be taken by the board in addition to a penalty of twenty-five dollars imposed by this section against any such licensee whose license has not expired for a period of more than two months, and who has had no action in the preceding five years taken against them by the board, and who has met all other licensure requirements by June thirtieth of the year of renewal; provided, however, that nothing in this section shall prevent the board from taking any other disciplinary action against a licensee if there shall exist a cause for discipline pursuant to section 344.050. A person whose license has expired for a period of more than twelve months must meet the requirements set out in section 344.030 for initial licensure.

344.050. SUSPENSION — REVOCATION — PROBATION — REFUSAL TO ISSUE OR RENEW LICENSE — GROUNDS — PROCEDURE — RIGHT OF REVIEW BY ADMINISTRATIVE HEARING COMMISSION. — 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his **or her** right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. **As an alternative to refusal to issue or renew any certificate, registration or authority, permit or license, the board may, at its discretion, issue a license which is subject to probation for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation shall contain a statement of the discipline imposed, the basis therefore, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary license to an applicant for licensure, the applicant may file a written**

petition with the administrative hearing commission within thirty days of the effective date of the probationary license seeking review of whether cause exists to discipline the licensee under subsection 2 of this section. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be waived.

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 for any one or any combination of the following causes:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of 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, pursuant to criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) **Violation of, or assisting or enabling any person to violate, any provision of chapter 198, RSMo, or any lawful rule or regulation promulgated thereunder;**

(8) Impersonation of any person holding a certificate of registration or authority, permit or license, or allowing any person to use **[**his**]** **such person's** certificate of registration or authority, permit, license or diploma from any school;

[(8)**]** **(9)** 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)**]** **(10)** A person is finally adjudged incapacitated or disabled by a court of competent jurisdiction;

[(10)**]** **(11)** Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

[(11)**]** **(12)** Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

[(12)**]** **(13)** Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

[(13)**]** **(14)** Knowingly failing to report abuse or neglect of a resident in a long-term care facility, as required by section 198.070, RSMo, of which he **or she** has actual knowledge that it is abuse or neglect**;**

(15) Violation of any professional trust or confidence;

(16) Having served as the administrator, operator, or any principal involved in the operation of a facility licensed under chapter 198, RSMo, and during such time the facility has had its license revoked under section 198.036, RSMo, has entered into a consent

agreement to obtain a probationary license under subsection 5 of section 198.026, RSMo, has had a license denied under subsection 2 of section 198.022, RSMo, or has surrendered its license while under investigation.

3. The administrative hearing commission shall have no authority to require issuance of a license, pending a final determination by the commission, in any case in which an applicant is seeking initial licensure.

4. No license may be suspended or revoked and no application for renewal of a license may be denied under this section until the licensee has been afforded an opportunity for hearing after due notice as provided in sections 621.015 to 621.205, RSMo.

5. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, **[**place upon probation,**]** **censure or place the person named in the complaint on probation on such terms as the board deems appropriate, or may** suspend or revoke **[**a**]** **the** certificate **[**of registration or authority**]**, permit or license. **The board may exclude any application for up to five years for any person who has had his or her license revoked by the board or has surrendered his or her license to the board.**

344.060. BOARD, MEMBERSHIP, QUALIFICATIONS, TERMS, REMOVED HOW, HEARING. — 1. The director of the department of health and senior services shall appoint ten suitable persons who together with the director **[**of the division of aging**]** of the department of health and senior services **or the director's designee** shall constitute the "Missouri Board of Nursing Home Administrators" which is hereby created within the department of health and senior services and which shall have the functions, powers and duties prescribed by sections 344.010 to **[**344.100**]** **344.108**.

2. In addition to the director of the **[**division of aging**]** **department of health and senior services** or **[**his**]** **the director's** designee the membership of the board shall consist of one licensed physician, two licensed health professionals, one person from the field of health care education, four persons who have been in general administrative charge of a licensed nursing home for a period of at least five years immediately preceding their appointment, and two public members. **In addition to these qualifications, the physician, the two licensed health care professionals, and the health care educator shall be citizens of the United States and taxpaying residents of the state of Missouri for one year preceding their appointments. The four appointees who have been in general administrative charge of a licensed nursing home shall be citizens of the United States and either residents of the state of Missouri for one year preceding their appointments or persons who have been licensed by the board and whose five years of employment in a licensed nursing home immediately preceding their appointment have occurred in the state of Missouri. The public members shall be citizens of the United States, residents of the state of Missouri for one year preceding their appointment, and registered voters.** The public members shall be persons who are not, or never were, licensed nursing home administrators or the spouse of such persons, or persons who do not have or never have had a material, financial interest in either the providing of licensed nursing home services or in an activity or organization directly related to licensed nursing home administration. Neither the one licensed physician, the two licensed health professionals, nor the person from the health care education field shall have any financial interest in a licensed nursing home.

3. The members of the board shall be appointed for three-year terms or until their successors are appointed and qualified provided that no more than four members' terms shall expire in the same year. All members appointed prior to September 28, 1979, shall serve the term for which they were appointed. The governor shall fill any vacancies on the board as necessary. Appointment to fill an unexpired term shall not be considered an appointment for a full term. Board membership, continued until successors are appointed and qualified, shall not

constitute an extension of the three-year term and the successors shall serve only the remainder of the term.

4. Every member shall receive a certificate of appointment; and every appointee, before entering upon his or her duties, shall take the oath of office required by article VII, section 11, of the Constitution of Missouri.

5. Any member of the board may be removed by the director of the department of health and senior services for misconduct, incompetency or neglect to duty after first being given an opportunity to be heard in his **or her** own behalf.

344.070. BOARD OFFICERS, HOW SELECTED — DUTIES AND POWERS OF BOARD — RULES AND REGULATIONS, PROCEDURE. — 1. The board shall annually elect one of its members as president, another as vice president, and another as secretary. It shall adopt an official seal. It shall file and preserve all written applications, petitions, complaints, charges or requests made or presented to it. It shall cause to be kept accurate records and minutes of its proceedings, and shall maintain a register of the names and addresses of all persons holding licenses as nursing home administrators. A copy of any entry in the register, or of any records or minutes of the board, certified by the president or secretary of the board under its seal, shall be received in evidence, to all intents and purposes as the original. The board may employ such part- or full-time clerical assistance, purchase such equipment and supplies, employ legal counsel, employ a part- or full-time investigator, and incur travel and other expense, within the limits of its appropriations.

2. The board shall adopt, amend and repeal rules and regulations necessary to carry out the provisions of sections **[**344.030 to 344.100**]** **344.020 to 344.108**. Any rule or regulation under the authority of sections **[**344.030 to 344.100**]** **344.020 to 344.108** shall be promulgated in accordance with chapter 536, RSMo. The committee on administrative rules may file a complaint in accordance with the provisions of chapter 536, RSMo, before the commission contesting the validity of any rule purportedly promulgated under the authority of sections **[**344.030 to 344.100**]** **344.020 to 344.108**. On filing any complaint in accordance with this section, the administrative hearing commission shall immediately suspend that portion of the rule which is challenged until the commission has determined the matter. The commission shall hold a hearing within ten days of the filing to determine the matter. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

3. The board shall examine, license, and renew the license of duly qualified applicants, and shall conduct hearings affording due process of law, upon charges calling for discipline of a licensee. The board shall refer to the appropriate prosecuting attorney information regarding any persons violating the provisions of sections 344.010 to **[**344.100**]** **344.108** and may incur necessary expenses therefor.

344.080. COMPENSATION OF BOARD MEMBERS, EXCEPTION. — The members of the board, other than the director of the **[**division of aging**]** **department of health and senior services** or his designee, shall receive as compensation for their services fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement for their expenses necessarily incurred in the discharge of their official duties.

344.105. RETIRED LICENSES PERMITTED, WHEN, PROCEDURE. — 1. Any nursing home administrator possessing a current license to practice as a nursing home administrator in this state who has maintained an active license for at least ten years may retire his or her license by filing an affidavit with the board which states the date on which the licensee retired from such practice and such other facts as tend to verify the retirement as the board may deem necessary. The affidavit shall be accompanied by a fee **[**of twenty-five dollars**]** **as provided by rule,** made payable to the **[**division of aging**]** **department of health and senior services**. Such request for

retired status may also be accomplished by signing the request for retired status that appears on the nursing home administrator's application for license renewal and returning such application to the board prior to June thirtieth of the year of renewal of the administrator's active license, accompanied by a fee **[**of twenty-five dollars**]** **as provided by rule,** made payable to the **[**division of aging**]** **department of health and senior services**. Information provided in the request for retired status shall be given under oath subject to the penalties for the making of a false affidavit.

2. An individual who requests retired license status shall return his or her original wall license and all other indicia of licensure to the board. Once the board has received the original wall license from the licensee **or evidence satisfactory to the board that the license has been lost, stolen, or destroyed,** and the other requirements for requesting retired status have been met, the board shall issue a new license to the licensee indicating that the licensee is retired.

3. A retired license may be reactivated within five years of the granting of the retired license by filing with the board evidence satisfactory to the board of the completion of twenty clock hours of continuing education for each calendar year the license was retired **accompanied by a fee as provided by rule made payable to the department of health and senior services**. All clock hours of continuing education shall be completed prior to the filing of the affidavit or renewal form requesting reactivation of the retired license. If more than five years have passed since the issuance of a retired license to a licensee, the licensee shall follow the procedures for initial licensure stated in section 344.030.

4. No person shall practice as a nursing home administrator in this state or hold himself or herself out as a nursing home administrator if his or her license is retired.

5. Retired licensees shall remain subject to disciplinary action for violations of this chapter and the rules promulgated thereunder.

344.108. INACTIVE STATUS OF LICENSE PERMITTED, WHEN — REACTIVATION, PROCEDURE. — 1. Any nursing home administrator possessing a current license to practice as a nursing home administrator in this state may place such license on inactive status by filing a written signed request for inactive status with the board, accompanied by evidence satisfactory to the board of completion of ten clock hours of continuing education in the area of patient care and a fee as provided by rule made payable to the department of health and senior services. This request may also be accomplished by signing the request for inactive status that appears on the nursing home administrator's application for license renewal and returning such application to the board prior to June thirtieth of the year of renewal of the administrator's active license, accompanied by evidence satisfactory to the board of the completion of ten clock hours of continuing education in the area of patient care and a fee as provided by rule made payable to the department of health and senior services. Information provided in the request for inactive status shall be given under oath subject to the penalties of making a false affidavit.

2. An individual who requests that his or her license be placed on inactive status shall return all indicia of licensure to the board or submit evidence satisfactory to the board that the license has been lost, stolen, or destroyed.

3. An inactive license shall expire on June thirtieth of the second year following the year of issuance and every other year thereafter. Licensees seeking to renew shall, during the month of May of the year of renewal, file an application for renewal on forms furnished by the board that include evidence satisfactory to the board of the completion of ten clock hours of continuing education in the area of patient care and shall be accompanied by a renewal fee as provided by rule, payable to the department of health and senior services.

4. A license may be carried in inactive status for up to six years from the date of issuance. If the licensee does not reactivate the license during the six-year period, the license shall expire on the last day of the six-year period.

5. A holder of an inactive license may reactivate the license by submitting a written request to the board, accompanied by evidence satisfactory to the board of the completion or plan for completion of forty clock hours of continuing education and a fee as provided by rule made payable to the department of health and senior services. The forty clock hours of continuing education shall be earned no earlier than six months prior to the request for reactivation and no later than twelve months after the inactive license has been reactivated. If the holder of an inactive license requests reactivation prior to completing the forty clock hours of continuing education, the board shall issue a six-month interim license to the licensee. The interim license shall expire six months from the date of issuance or at such earlier time as the licensee earns the forty clock hours of continuing education and submits evidence satisfactory to the board of completion of the required hours.

6. A request for reactivation of an inactive license shall show, under oath or affirmation of the nursing home administrator, a statement that the nursing home administrator has not practiced during the inactive period and is not presently practicing in this state.

7. No person shall practice as a nursing home administrator or hold himself or herself out as a nursing home administrator in this state while his or her license is inactive.

8. Inactive licensees shall remain subject to discipline for violations of this chapter and the rules promulgated thereunder.

345.015. DEFINITIONS. — As used in sections 345.010 to 345.080, the following terms mean:

(1) "Audiologist", a person who is licensed as an audiologist pursuant to sections 345.010 to 345.080 to practice audiology;

(2) "Audiology aide", a person who is registered as an audiology aide by the board, who does not act independently but works under the direction and supervision of a licensed audiologist. Such person assists the audiologist with activities which require an understanding of audiology but do not require formal training in the relevant academics. To be eligible for registration by the board, each applicant shall submit a registration fee, be of good moral and ethical character; and:

(a) Be at least eighteen years of age;

(b) Furnish evidence of the person's educational qualifications which shall be at a minimum:

a. Certification of graduation from an accredited high school or its equivalent; and

b. On-the-job training;

(c) Be employed in a setting in which direct and indirect supervision are provided on a regular and systematic basis by a licensed audiologist. However, the aide shall not administer or interpret hearing screening or diagnostic tests, fit or dispense hearing instruments, make ear impressions, make diagnostic statements, determine case selection, present written reports to anyone other than the supervisor without the signature of the supervisor, make referrals to other professionals or agencies, use a title other than speech-language pathology aide or clinical audiology aide, develop or modify treatment plans, discharge clients from treatment or terminate treatment, disclose clinical information, either orally or in writing, to anyone other than the supervising speech-language pathologist/audiologist, or perform any procedure for which he or she is not qualified, has not been adequately trained or both;

(3) "Board", the state board of registration for the healing arts;

(4) "Clinical fellowship", the supervised professional employment period following completion of the academic and practicum requirements of an accredited training program as defined in sections 345.010 to 345.080;

(5) "Commission", the advisory commission for speech-language pathologists and audiologists;

(6) "Hearing instrument" or "hearing aid", any wearable device or instrument designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, including ear molds, but excluding batteries, cords, receivers and repairs;

(7) "Person", any individual, organization, or corporate body, except that only individuals may be licensed pursuant to sections 345.010 to 345.080;

(8) "Practice of audiology":

(a) The application of accepted audiologic principles, methods and procedures for the measurement, testing, interpretation, appraisal and prediction related to disorders of the auditory system, balance system or related structures and systems;

(b) Provides consultation, counseling to the patient, client, student, their family or interested parties;

(c) Provides academic, social and medical referrals when appropriate;

(d) Provides for establishing goals, implementing strategies, methods and techniques, for habilitation, rehabilitation or aural rehabilitation, related to disorders of the auditory system, balance system or related structures and systems;

(e) Provides for involvement in related research, teaching or public education;

(f) Provides for rendering of services or participates in the planning, directing or conducting of programs which are designed to modify audition, communicative, balance or cognitive disorder, which may involve speech and language or education issues;

(g) Provides and interprets behavioral and neurophysiologic measurements of auditory balance, cognitive processing and related functions, including intraoperative monitoring;

(h) Provides involvement in any tasks, procedures, acts or practices that are necessary for evaluation of audition, hearing, training in the use of amplification or assistive listening devices;

(i) Provides selection **[**and**] ,** assessment**, fitting, programming, and dispensing** of hearing instruments**, assistive listening devices, and other amplification systems**;

(j) Provides for taking impressions of the ear, making custom ear molds, ear plugs, swim molds and industrial noise protectors;

(k) Provides assessment of external ear and cerumen management;

(l) Provides advising, fitting, mapping assessment of implantable devices such as cochlear or auditory brain stem devices;

(m) Provides information in noise control and hearing conservation including education, equipment selection, equipment calibration, site evaluation and employee evaluation;

(n) Provides performing basic speech-language screening test;

(o) Provides involvement in social aspects of communication, including challenging behavior and ineffective social skills, lack of communication opportunities;

(p) Provides support and training of family members and other communication partners for the individual with auditory balance, cognitive and communication disorders;

(q) Provides aural rehabilitation and related services to individuals with hearing loss and their families;

(r) Evaluates, collaborates and manages audition problems in the assessment of the central auditory processing disorders and providing intervention for individuals with central auditory processing disorders;

(s) Develops and manages academic and clinical problems in communication sciences and disorders;

(t) Conducts, disseminates and applies research in communication sciences and disorders;

(9) "Practice of speech-language pathology":

(a) Provides screening, identification, assessment, diagnosis, treatment, intervention, including but not limited to prevention, restoration, amelioration and compensation, and follow-up services for disorders of:

a. Speech: articulation, fluency, voice, including respiration, phonation and resonance;

b. Language, involving the parameters of phonology, morphology, syntax, semantics and pragmatic; and including disorders of receptive and expressive communication in oral, written, graphic and manual modalities;

c. Oral, pharyngeal, cervical esophageal and related functions, such as dysphagia, including disorders of swallowing and oral functions for feeding; orofacial myofunctional disorders;

d. Cognitive aspects of communication, including communication disability and other functional disabilities associated with cognitive impairment;

e. Social aspects of communication, including challenging behavior, ineffective social skills, lack of communication opportunities;

(b) Provides consultation and counseling and makes referrals when appropriate;

(c) Trains and supports family members and other communication partners of individuals with speech, voice, language, communication and swallowing disabilities;

(d) Develops and establishes effective augmentative and alternative communication techniques and strategies, including selecting, prescribing and dispensing of augmentative aids and devices; and the training of individuals, their families and other communication partners in their use;

(e) Selects, fits and establishes effective use of appropriate prosthetic/adaptive devices for speaking and swallowing, such as tracheoesophageal valves, electrolarynges, or speaking valves;

(f) Uses instrumental technology to diagnose and treat disorders of communication and swallowing, such as videofluoroscopy, nasendoscopy, ultrasonography and stroboscopy;

(g) Provides aural rehabilitative and related counseling services to individuals with hearing loss and to their families;

(h) Collaborates in the assessment of central auditory processing disorders in cases in which there is evidence of speech, language or other cognitive communication disorders; provides intervention for individuals with central auditory processing disorders;

(i) Conducts pure-tone air conduction hearing screening and screening tympanometry for the purpose of the initial identification or referral;

(j) Enhances speech and language proficiency and communication effectiveness, including but not limited to accent reduction, collaboration with teachers of English as a second language and improvement of voice, performance and singing;

(k) Trains and supervises support personnel;

(l) Develops and manages academic and clinical programs in communication sciences and disorders;

(m) Conducts, disseminates and applies research in communication sciences and disorders;

(n) Measures outcomes of treatment and conducts continuous evaluation of the effectiveness of practices and programs to improve and maintain quality of services;

(10) "Speech-language pathologist", a person who is licensed as a speech-language pathologist pursuant to sections 345.010 to 345.080; who engages in the practice of speech-language pathology as defined in sections 345.010 to 345.080;

(11) "Speech-language pathology aide", a person who is registered as a speech-language aide by the board, who does not act independently but works under the direction and supervision of a licensed speech-language pathologist. Such person assists the speech-language pathologist with activities which require an understanding of speech-language pathology but do not require formal training in the relevant academics. To be eligible for registration by the board, each applicant shall submit a registration fee, be of good moral and ethical character; and:

(a) Be at least eighteen years of age;

(b) Furnish evidence of the person's educational qualifications which shall be at a minimum:

a. Certification of graduation from an accredited high school or its equivalent; and

b. On-the-job training;

(c) Be employed in a setting in which direct and indirect supervision is provided on a regular and systematic basis by a licensed speech-language pathologist. However, the aide shall

not administer or interpret hearing screening or diagnostic tests, fit or dispense hearing instruments, make ear impressions, make diagnostic statements, determine case selection, present written reports to anyone other than the supervisor without the signature of the supervisor, make referrals to other professionals or agencies, use a title other than speech-language pathology aide or clinical audiology aide, develop or modify treatment plans, discharge clients from treatment or terminate treatment, disclose clinical information, either orally or in writing, to anyone other than the supervising speech-language pathologist/audiologist, or perform any procedure for which he or she is not qualified, has not been adequately trained or both;

(12) "Speech-language pathology assistant", a person who is registered as a speech-language pathology assistant by the board, who does not act independently but works under the direction and supervision of a licensed speech-language pathologist and whose activities require both academic and practical training in the field of speech-language pathology although less training than those established by sections 345.010 to 345.080 as necessary for licensing as a speech-language pathologist. To be eligible for registration by the board, each applicant shall submit the registration fee, be of good moral character and furnish evidence of the person's educational qualifications which meet the following:

(a) Hold a bachelor's level degree in the field of speech-language pathology from an institution accredited or approved by a regional accrediting body recognized by the United States Department of Education or its equivalent; and

(b) Submit official transcripts from one or more accredited colleges or universities presenting evidence of the completion of bachelor's level course work and clinical practicum requirements equivalent to that required or approved by a regional accrediting body recognized by the United States Department of Education or its equivalent.

345.030. DUTIES OF BOARD. — 1. The board shall administer, coordinate, and enforce the provisions of sections 345.010 to 345.080, evaluate the qualifications of applicants, supervise the examination of applicants, issue licenses, and shall investigate persons engaging in practices which appear to violate the provisions of sections 345.010 to 345.080.

2. The board shall conduct such hearings and keep such records and minutes as shall be necessary to an orderly dispatch of business.

3. The board shall adopt reasonable rules and regulations which establish ethical standards of practice and may amend or repeal the same. **Rules and regulations shall be adopted that ensure consumer protection related to hearing instrument dispensing that meet or exceed those provided under sections 346.007 to 346.250, RSMo, and rules and regulations promulgated pursuant thereto.**

4. Regular meetings of the commission shall be held at such times and places as it prescribes, and special meetings may be held upon the call of the chairperson or by request of at least two other members of the commission, but at least one regular meeting shall be held each year.

5. No rule or portion of a rule promulgated pursuant to the authority of sections 345.010 to 345.080 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

345.033. PURCHASE AGREEMENT REQUIRED, WHEN, CONTENTS. — 1. Any person licensed under sections 345.010 to 345.080 who dispenses products associated with professional practice to clients for remuneration shall deliver to each person supplied with a product a completed purchase agreement which shall include the terms of the sale clearly stated using ordinary English language and terminology which is easily understood by the purchaser. If a product which is not new is sold, the purchase agreement and the container thereof shall be clearly marked as "used", "recased", or "reconditioned", whichever is applicable, with terms of guarantee, if any.

2. Any audiologist licensed under sections 345.010 to 345.080 who dispenses hearing instruments shall include in the purchase agreement for a hearing instrument the following:

(1) The licensee's signature, business address, and license number;

(2) The specifications of the hearing instrument dispensed including make, model, and serial number;

(3) The exact amount of any down payment;

(4) The length of any trial period provided;

(5) The amount of any charges or service fees connected with any trial period;

(6) A description of the right of the purchaser to return the hearing instrument or written notification that no such right exists;

(7) The name of the manufacturer of the component parts and the assembler or reassembler of the hearing instrument when the product sold is remanufactured or assembled by someone other than the manufacturer of the component parts.

345.045. BOARD FUND, COLLECTION AND DISPOSITION — TRANSFERS AUTHORIZED. — 1. Except as otherwise provided in this section, all moneys received pursuant to sections 345.010 to 345.080 shall be collected by the division of professional registration and shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the board of registration for the healing arts fund.

2. Effective July 1, 2008, the board shall, in every odd numbered year, transfer from the "Board of Registration for the Healing Arts Fund" to the "Hearing Instrument Specialist Fund" an amount not to exceed sixty-one thousand dollars per transfer as necessary to replace decreased renewal fees received by the board of examiners for hearing instrument specialists as a result of the decrease in licensees under subsection 2 of section 346.060, RSMo. The initial transfer amount shall be equal to the license renewal fees paid during fiscal years 2006 and 2007 by individuals licensed under subsection 2 of section 346.060, RSMo. The amount of subsequent transfers may decrease each odd numbered year. Any decrease shall be no more than twenty-five percent of the initial transfer amount. The transfer amount shall be requested through the legislative budget process by the director of the division of professional registration, with the advice and consultation of the board and the board of examiners for hearing instrument specialists.

3. Moneys collected and deposited under this section may be used to assist in the enforcement of the statutes relating to the fitting and dispensing of hearing aids by unlicensed individuals.

345.055. FEES, AMOUNT, HOW SET. — 1. The board shall charge a license or registration renewal fee for each license or registration renewed. Persons possessing the required training and qualifications to be licensed or registered as both a speech-language pathologist and audiologist shall receive both licenses, which for the purposes of this section shall be considered as a single license or certificate. Duplicate licenses or certificates shall be issued without additional charge to persons practicing in more than one location. Persons who allow their licenses to lapse shall submit a reinstatement fee, and if the license has lapsed for more than a three-year period, the board may require reexamination.

2. The fees prescribed by section 345.051 and this section shall be exclusive, and notwithstanding any other provision of law, no municipality may require any person licensed pursuant to the provisions of sections 345.010 to 345.080 to furnish any bond, pass any examination, or pay any license fee or occupational tax.

3. The board shall set the amount of the fees which sections 345.010 to 345.080 authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce**:**

(1) Revenue which shall not substantially exceed the cost and expense of administering sections 345.010 to 345.080**; and**

(2) Effective July 1, 2008, any transfer required from the board under subsection 2 of section 345.045.

346.015. LICENSE REQUIRED — EXCEPTION — PENALTY FOR VIOLATION. — 1. No person shall engage in the practice of fitting hearing instruments or display a sign or in any other way advertise or represent such person by any other words, letters, abbreviations or insignia indicating or implying that the person practices the fitting of hearing instruments unless the person holds a valid license issued by the division as provided in this chapter. The license shall be conspicuously posted in the person's office or place of business. Duplicate licenses shall be issued by the department to valid license holders operating more than one office, without additional payment. A license under this chapter shall confer upon the holder the right to select, fit and sell hearing instruments.

2. Each person licensed pursuant to sections 346.010 to 346.250 shall display the license in an appropriate and public manner and shall keep the board informed of the licensee's current address. A license issued pursuant to sections 346.010 to 346.250 is the property of the division and must be surrendered on demand in the event of expiration or after a final determination is made with respect to revocation, suspension or probation.

3. Nothing in this chapter shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing instruments at retail, provided that it employ only properly licensed hearing instrument specialists **or properly licensed audiologists** in the direct sale and fitting of such instruments. Each corporation, partnership, trust, association or other like organization shall file annually with the board on a form provided by the board, a list of all licensed hearing instrument specialists employed by it. Each organization shall also file with the division a statement, on a form provided by the division, that it agrees to comply with the rules and regulations of the division and the provisions of **this chapter**.

4. Any person who violates any provision of this section is guilty of a class B misdemeanor.

346.030. INAPPLICABILITY OF LAW, WHEN. — Sections 346.010 to 346.250 **[**are not intended to prevent**] shall not apply to** any audiologist licensed pursuant to chapter 345, RSMo, **[**from engaging in the practice of measuring human hearing for the purpose of selection of hearing aids, provided such audiologist, or organization employing such audiologist, does not sell hearing instruments, or accessories thereto, except in the case of earmolds provided by an audiologist to be used only for the purpose of audiologic evaluation**] while practicing exclusively under that license**.

346.035. EXEMPT PROFESSION. — **[**1.**]** Sections 346.010 to 346.250 shall not apply to a person who is a physician licensed to practice in Missouri pursuant to chapter 334, RSMo.

[2. Sections 346.010 to 346.250 shall not apply to an audiologist, provided such person or organization employing such person does not engage in the sale of hearing aids.**]**

346.055. REQUIREMENTS FOR LICENSE BY EXAMINATION. — **1.** An applicant may obtain a license by successfully passing a qualifying examination of the type described in sections 346.010 to 346.250, provided the applicant:

(1) Is at least twenty-one years of age;

(2) Is of good moral character; **and**

(3) **Until December 31, 2008,** has an education equivalent to at least a high school diploma from an accredited high school.

2. Beginning January 1, 2009, an applicant for a hearing instrument specialist license or a hearing instrument specialist-in-training permit shall demonstrate successful

completion of a minimum of sixty semester hours, or its equivalent, at a state or regionally accredited institution of higher education.

3. Beginning January 1, 2011, an applicant for a hearing instrument specialist license or a hearing instrument specialist-in-training permit shall hold an associate's level degree or higher from a state or regionally accredited institution of higher education.

4. Beginning January 1, 2013, or any date thereafter when an associate degree program in hearing instrument sciences is available from a state or regionally accredited institution within Missouri, an applicant for a hearing instrument specialist license or a hearing instrument specialist-in-training permit shall hold:

(1) An associate's degree or higher in hearing instrument sciences; or

(2) A master's or doctoral degree in audiology from a state or regionally accredited institution.

5. The provisions of subsections 2, 3, and 4 of this section shall not apply to any person holding a valid Missouri hearing instrument specialist license under this chapter when applying for the renewal of that license. These provisions shall apply to any person holding a hearing instrument specialist-in-training permit at the time of their application for licensure or renewal of said permit.

346.060. EXAMINATION, WRITTEN AND PRACTICAL REQUIRED. — **[**1.**]** An applicant for license by examination shall appear at a time, place, and before such persons as the board may designate to be examined by means of written and practical tests in order to demonstrate that the applicant is qualified to engage in the practice of fitting hearing instruments. Nothing in this examination shall imply that the applicant shall possess the degree of medical competence normally expected of physicians.

[2. Notwithstanding the provisions of subsection 1 of this section, any applicant who is an audiologist licensed pursuant to chapter 345, RSMo, and who holds the certification of clinical competence or is completing the clinical fellowship year offered by the American Speech-Language-Hearing Association shall not be required to pass either the written exam or the practical exam for licensure as a hearing instrument specialist in this state.**]**

346.110. PROHIBITED ACTS. — No person shall:

(1) Sell through the mails, hearing instruments without prior fitting and testing by a hearing instrument specialist **licensed under this chapter or an audiologist licensed under chapter 345, RSMo**;

(2) Sell, barter, or offer to sell or barter a license;

(3) Purchase or procure by barter a license with intent to use it as evidence of the holder's qualification to engage in the practice of fitting hearing instruments;

(4) Alter a license with fraudulent intent;

(5) Use or attempt to use as a valid license a license which has been purchased, fraudulently obtained, counterfeited or materially altered;

(6) Willfully make a false statement in an application for license or application for renewal of a license.

383.130. DEFINITIONS. — As used in sections 383.130**[**,**]** **and** 383.133 **[**and 383.500**]**, the following terms shall mean:

(1) "Disciplinary action", any final action taken by the board of trustees or similarly empowered officials of a hospital or ambulatory surgical center**, or owner or operator of a temporary nursing staffing agency,** to reprimand, discipline or restrict the practice of a health care professional. **[**If the health care professional is a physician or surgeon,**]** Only such reprimands, discipline, or restrictions in response to activities which are also grounds for disciplinary actions **[**pursuant to section 334.100, RSMo,**]** **according to the professional licensing law for that health care professional** shall be considered disciplinary actions for the

purposes of this definition**[**. If the health care professional is a dentist, only such reprimands, discipline, or restrictions in response to activities which are also grounds for disciplinary actions pursuant to section 332.321, RSMo, shall be considered disciplinary actions for the purposes of this definition**]**;

(2) "Health care professional", a physician or surgeon licensed under the provisions of chapter 334, RSMo, a dentist licensed under the provisions of chapter 332, RSMo, or a podiatrist licensed under the provisions of chapter 330, RSMo, or a pharmacist licensed under the provisions of chapter 338, RSMo, a psychologist licensed under the provisions of chapter 337, RSMo, or a nurse licensed under the provisions of chapter 335, RSMo, while acting within their scope of practice;

(3) "Hospital", a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty-four hours in any week of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions; or a place devoted primarily to provide for not less than twenty-four hours in any week medical or nursing care for three or more nonrelated individuals. The term "hospital" does not include convalescent, nursing, shelter or boarding homes as defined in chapter 198, RSMo;

(4) "Licensing authority", the appropriate board or authority which is responsible for the licensing or regulation of the health care professional**;**

(5) "Temporary nursing staffing agency", any person, firm, partnership, or corporation doing business within the state that supplies, on a temporary basis, registered nurses, licensed practical nurses to a hospital, nursing home, or other facility requiring the services of those persons.

383.133. REPORTS BY HOSPITALS, AMBULATORY SURGICAL CENTERS AND LICENSING AUTHORITIES, WHEN, CONTENTS, LIMITED USE, PENALTY. — 1. **[**Beginning on January 1, 1987,**]** The chief executive office **or similarly empowered official** of any hospital **[**or**] ,** ambulatory surgical center, as such **[**term is**] terms are** defined in **[**section 197.200**] chapter 197**, RSMo, **or temporary nursing staffing agency,** shall report to the appropriate health care professional licensing authority any disciplinary action against any health care professional or the voluntary resignation of any health care professional against whom any complaints or reports have been made which might have led to disciplinary action.

2. All reports required by this section shall be submitted within fifteen days of the final disciplinary action and shall contain, but need not be limited to, the following information:

(1) The name, address and telephone number of the person making the report;

(2) The name, address and telephone number of the person who is the subject of the report;

(3) A **[**brief**]** description of the facts**, including as much detail and information as possible,** which gave rise to the issuance of the report, including the dates of occurrence deemed to necessitate the filing of the report;

(4) If court action is involved and known to the reporting agent, the identity of the court, including the date of filing and the docket number of the action.

3. Upon request, the licensing authority may furnish a report of any disciplinary action received by it under the provisions of this section to any **[**of the hospitals or ambulatory surgical centers**] entity** required to report **under this section**. Such licensing authority may also furnish, upon request, a report of disciplinary action taken by the licensing authority to any other administrative or law enforcement agency acting within the scope of its statutory authority.

4. There shall be no liability on the part of, and no cause of action of any nature shall arise against any health care professional licensing authority or any **[**hospital or ambulatory surgical center**] entity** required to report under this section, or any of their agents or employees for any action taken in good faith and without malice in carrying out the provisions of this section.

5. Neither a report required to be filed under subsection 2 of this section nor the record of any proceeding shall be used against a health care professional in any other administrative or judicial proceeding.

6. Violation of any provision of this section is an infraction.

407.309. ADVERTISING RESTRICTIONS — DEFINITIONS — ATTORNEY GENERAL TO ENFORCE, WHEN — CIVIL PENALTY AUTHORIZED. — 1. As used in this section, the following terms mean:

(1) "Performing group", a vocal or instrumental group seeking to use the name of another group that has previously released a commercial sound recording under that name;

(2) "Recording group", a vocal or instrumental group at least one of whose members has previously released a commercial sound recording under that group's name and in which the member or members have a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group;

(3) "Sound recording", a work that results from the fixation on a material object of a series of musical, spoken, or other sounds regardless of the nature of the material object, such as a disk, tape, or other phono-record, in which the sounds are embodied.

2. It shall be unlawful for any person to advertise or conduct a live musical performance or production in this state through the use of a false, deceptive, or misleading affiliation, connection, or association between the performing group and the recording group. This section shall not apply if:

(1) The performing group is the authorized registrant and owner of a federal service mark for that group registered in the United States Patent and Trademark Office;

(2) At least one member of the performing group was a member of the recording group and has a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group;

(3) The live musical performance or production is identified in all advertising and promotion as a salute or tribute;

(4) The advertising does not relate to a live musical performance or production taking place in this state; or

(5) The performance or production is expressly authorized by the recording group.

3. Whenever the attorney general has reason to believe that any person is advertising or conducting or is about to advertise or conduct a live musical performance or production in violation of this section and that proceedings would be in the public interest, the attorney general may bring an action against the person to restrain by temporary or permanent injunction that practice.

4. Whenever any court issues a permanent injunction to restrain and prevent violations of this section as authorized in subsection 3 of this section, the court may in its discretion direct that the defendant restore to any person in interest any moneys or property, real or personal, which may have been acquired by means of any violation of this section, under terms and conditions to be established by the court.

5. Notwithstanding the provisions of section 407.100 to the contrary, any person who violates this section shall be assessed a civil penalty of not less than five thousand dollars nor more than fifteen thousand dollars per violation, which civil penalty shall be in addition to any other relief which may be granted under subsection 4 of this section. Each performance or production declared unlawful by this section shall constitute a separate violation.

620.010. DEPARTMENT OF ECONOMIC DEVELOPMENT CREATED — DIVISIONS — AGENCIES — BOARDS AND COMMISSIONS — PERSONNEL — POWERS AND DUTIES — PROFESSIONAL REGISTRATION FEE FUND ESTABLISHED — RULES, PROCEDURE. — 1. There is hereby created a "Department of Economic Development" to be headed by a director

appointed by the governor, by and with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 shall continue to apply to this department and its divisions, agencies and personnel.

2. The office of director of the department of business and administration, chapter 35, RSMo, and others, is abolished and all powers, duties, personnel and property of that office, not previously reassigned by executive reorganization plan no. 1 of 1973 as submitted by the governor pursuant to chapter 26, RSMo, are transferred by type I transfer to the director of the department of economic development. The department of business and administration is hereby abolished.

3. The duties and responsibilities relating to subsection 2 of section 35.010, RSMo, are transferred by type I transfer to the personnel division, office of administration.

4. The powers, duties and functions vested in the public service commission, chapters 386, 387, 388, 389, 390, 392, and 393, RSMo, and others, and the administrative hearing commission, sections 621.015 to 621.198, RSMo, and others, are transferred by type III transfers, and the state banking board, chapter 361, RSMo, and others, and the savings and loan commission, chapter 369, RSMo, and others, are transferred by type II transfers to the department of economic development. The director of the department is directed to provide and coordinate staff and equipment services to these agencies in the interest of facilitating the work of the bodies and achieving optimum efficiency in staff services common to all the bodies. Nothing in the Reorganization Act of 1974 shall prevent the chairman of the public service commission from presenting additional budget requests or from explaining or clarifying its budget requests to the governor or general assembly.

5. The powers, duties and functions vested in the office of the public counsel are transferred by type III transfer to the department of economic development. Funding for the general counsel's office shall be by general revenue.

6. The public service commission is authorized to employ such staff as it deems necessary for the functions performed by the general counsel other than those powers, duties and functions relating to representation of the public before the public service commission.

7. There is hereby created a "Division of Credit Unions" in the department of economic development, to be headed by a director, nominated by the department director and appointed by the governor with the advice and consent of the senate. All the powers, duties and functions vested in the state supervisor of credit unions in chapter 370, RSMo, and the powers and duties relating to credit unions vested in the commissioner of finance in chapter 370, RSMo, are transferred to the division of credit unions of the department of economic development, by a type II transfer, and the office of the state supervisor of credit unions is abolished. The salary of the director of the division of credit unions shall be set by the director of the department within the limits of the appropriations therefor. The director of the division shall assume all the duties and functions of the state supervisor of credit unions and the commissioner of finance only where the director has duties and responsibilities relating to credit unions as set out in chapter 370, RSMo.

8. The powers, duties and functions vested in the division of finance, chapters 361, 362, 364, 365, 367, and 408, RSMo, and others, are transferred by type II transfer to the department of economic development. There shall be a director of the division who shall be nominated by the department director and appointed by the governor with the advice and consent of the senate.

9. All the powers, duties and functions vested in the director of the division of savings and loan supervision in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, or by any other provision of law are transferred to the division of finance of the department of economic development by a type I transfer. The position of the director of the division of savings and loan supervision is hereby abolished. The director of the division of finance shall assume all the duties and functions of the director of the division of savings and loan supervision as provided in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, and by any other provision of law. The division of savings and loan is hereby abolished. The powers of the savings and loan

commission are hereby limited to hearing appeals from decisions of the director of the division of finance approving or denying applications to incorporate savings and loan associations or to establish branches of savings and loan associations and approving regulations pertaining to savings and loan associations. Any appeals shall be held in accordance with section 369.319, RSMo.

10. On and after August 28, 1990, the status of the division is modified under a specific type transfer pursuant to section 1 of the Omnibus Reorganization Act of 1974. The status of the division is modified from that of a division transferred to the department of economic development pursuant to a type II transfer, as provided for in this section, to that of an agency possessing the characteristics of a division transferred pursuant to a type III transfer; provided, however, that the division will remain within the department of economic development. The division of insurance shall be assigned to the department of economic development as a type III division, and the director of the department of economic development shall have no supervision, authority or control over the actions or decisions of the director of the division. All authority, records, property, personnel, powers, duties, functions, matter pending and all other pertinent vestiges pertaining thereto shall be retained by the division except as modified by this section. If the division of insurance becomes a department by operation of a constitutional amendment, the department of economic development shall continue until December 31, 1991, to provide at least the same assistance as was provided in previous fiscal years for personnel, data processing support and other benefits from appropriations.

11. All the powers, duties and functions of the commerce and industrial development division and the industrial development commission, chapters 184 and 255, RSMo, and others, not otherwise transferred, are transferred by type I transfer to the department of economic development, and the industrial development commission is abolished. All powers, duties and functions of the division of commerce and industrial development and the division of community development are transferred by a type I transfer to the department of economic development, and the division of commerce and industrial development and the division of community development are abolished.

12. All the powers, duties and functions vested in the tourism commission, chapter 258, RSMo, and others, are transferred to the "Division of Tourism", which is hereby created, by type III transfer.

13. All the powers, duties and functions of the department of community affairs, chapter 251, RSMo, and others, not otherwise assigned, are transferred by type I transfer to the department of economic development, and the department of community affairs is abolished. The director of the department of economic development may assume all the duties of the director of community affairs or may establish within the department such subunits and advisory committees as may be required to administer the programs so transferred. The director of the department shall appoint all members of such committees and heads of subunits.

14. (1) There is hereby established a "Division of Professional Registration" assigned to the department of economic development as a type III division, headed by a director appointed by the governor with the advice and consent of the senate.

(2) The director of the division of professional registration shall promulgate rules and regulations which designate for each board or commission assigned to the division the renewal date for licenses or certificates. After the initial establishment of renewal dates, no director of the division shall promulgate a rule or regulation which would change the renewal date for licenses or certificates if such change in renewal date would occur prior to the date on which the renewal date in effect at the time such new renewal date is specified next occurs. Each board or commission shall by rule or regulation establish licensing periods of one, two, or three years. Registration fees set by a board or commission shall be effective for the entire licensing period involved, and shall not be increased during any current licensing period. Persons who are required to pay their first registration fees shall be allowed to pay the pro rata share of such fees for the remainder of the period remaining at the time the fees are paid. Each board or

commission shall provide the necessary forms for initial registration, and thereafter the director may prescribe standard forms for renewal of licenses and certificates. Each board or commission shall by rule and regulation require each applicant to provide the information which is required to keep the board's records current. Each board or commission shall issue the original license or certificate.

(3) The division shall provide clerical and other staff services relating to the issuance and renewal of licenses for all the professional licensing and regulating boards and commissions assigned to the division. The division shall perform the financial management and clerical functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and renewal of licenses and certificates" means the ministerial function of preparing and delivering licenses or certificates, and obtaining material and information for the board or commission in connection with the renewal thereof. It does not include any discretionary authority with regard to the original review of an applicant's qualifications for licensure or certification, or the subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action contemplated against the licensee or certificate holder. The division may develop and implement microfilming systems and automated or manual management information systems.

(4) The director of the division shall establish a system of accounting and budgeting, in cooperation with the director of the department, the office of administration, and the state auditor's office, to ensure proper charges are made to the various boards for services rendered to them. The general assembly shall appropriate to the division and other state agencies from each board's funds, moneys sufficient to reimburse the division and other state agencies for all services rendered and all facilities and supplies furnished to that board.

(5) For accounting purposes, the appropriation to the division and to the office of administration for the payment of rent for quarters provided for the division shall be made from the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for the purpose defined in subdivision (4) of subsection 14 of this section. The fund shall consist of moneys deposited into it from each board's fund. Each board shall contribute a prorated amount necessary to fund the division for services rendered and rent based upon the system of accounting and budgeting established by the director of the division as provided in subdivision (4) of this subsection. Transfers of funds to the professional registration fees fund shall be made by each board on July first of each year; provided, however, that the director of the division may establish an alternative date or dates of transfers at the request of any board. Such transfers shall be made until they equal the prorated amount for services rendered and rent by the division. **[**The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue.**]** **The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the appropriation from the professional registration fees fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the professional registration fees fund for the preceding fiscal year.**

(6) The director of the division shall be responsible for collecting and accounting for all moneys received by the division or its component agencies. Any money received by a board or commission shall be promptly given, identified by type and source, to the director. The director shall keep a record by board and state accounting system classification of the amount of revenue the director receives. The director shall promptly transmit all receipts to the department of revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall provide each board with all relevant financial information in a timely fashion. Each board shall cooperate with the director by providing necessary information.

(7) All educational transcripts, test scores, complaints, investigatory reports, and information pertaining to any person who is an applicant or licensee of any agency assigned to the division of professional registration by statute or by the department of economic development are

confidential and may not be disclosed to the public or any member of the public, except with the written consent of the person whose records are involved. The agency which possesses the records or information shall disclose the records or information if the person whose records or information is involved has consented to the disclosure. Each agency is entitled to the attorney-client privilege and work-product privilege to the same extent as any other person. Provided, however, that any board may disclose confidential information without the consent of the person involved in the course of voluntary interstate exchange of information, or in the course of any litigation concerning that person, or pursuant to a lawful request, or to other administrative or law enforcement agencies acting within the scope of their statutory authority. Information regarding identity, including names and addresses, registration, and currency of the license of the persons possessing licenses to engage in a professional occupation and the names and addresses of applicants for such licenses is not confidential information.

(8) Any deliberations conducted and votes taken in rendering a final decision after a hearing before an agency assigned to the division shall be closed to the parties and the public. Once a final decision is rendered, that decision shall be made available to the parties and the public.

15. (1) The division of registration and examination, department of education, within chapter 161, RSMo, and others, is abolished and the following boards and commissions are transferred by specific type transfers to the division of professional registration, department of economic development: state board of accountancy, chapter 326, RSMo; state board of barber examiners, chapter 328, RSMo; state board of registration for architects, professional engineers and land surveyors, chapter 327, RSMo; state board of chiropractic examiners, chapter 331, RSMo; state board of cosmetology, chapter 329, RSMo; state board of healing arts, chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and funeral directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; state board of nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board of podiatry, chapter 330, RSMo; Missouri real estate commission, chapter 339, RSMo; and Missouri veterinary medical board chapter 340, RSMo. The governor shall appoint members of these boards by and with the advice and consent of the senate from nominees submitted by the director of the department.

(2) The boards and commissions assigned to the division shall exercise all their respective statutory duties and powers, except those clerical and other staff services involving collecting and accounting for moneys and financial management relating to the issuance and renewal of licenses, which services shall be provided by the division, within the appropriation therefor. All clerical and other staff services relating to the issuance and renewal of licenses of the individual boards and commissions are abolished. All clerical and other staff services pertaining to collecting and accounting for moneys and to financial management relative to the issuance and renewal of licenses of the individual boards and commissions are abolished. Nothing herein shall prohibit employment of professional examining or testing services from professional associations or others as required by the boards or commissions on contract. Nothing herein shall be construed to affect the power of a board or commission to expend its funds as appropriated. However, the division shall review the expense vouchers of each board. The results of such review shall be submitted to the board reviewed and to the house and senate appropriations committees annually.

(3) Notwithstanding any other provisions of law, the director of the division shall exercise only those management functions of the boards and commissions specifically provided in the Reorganization Act of 1974, and those relating to the allocation and assignment of space, personnel other than board personnel, and equipment.

(4) "Board personnel", as used in this section or chapters 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 338, 339 and 340, RSMo, shall mean personnel whose functions and responsibilities are in areas not related to the clerical duties involving the issuance and renewal of licenses, to the collecting and accounting for moneys, or to financial management relating to issuance and renewal of licenses; specifically included are executive secretaries (or comparable

positions), consultants, inspectors, investigators, counsel, and secretarial support staff for these positions; and such other positions as are established and authorized by statute for a particular board or commission. Boards and commissions may employ legal counsel, if authorized by law, and temporary personnel if the board is unable to meet its responsibilities with the employees authorized above. Any board or commission which hires temporary employees shall annually provide the division director and the appropriation committees of the general assembly with a complete list of all persons employed in the previous year, the length of their employment, the amount of their remuneration and a description of their responsibilities.

(5) Board personnel for each board or commission shall be employed by and serve at the pleasure of the board or commission, shall be supervised as the board or commission designates, and shall have their duties and compensation prescribed by the board or commission, within appropriations for that purpose, except that compensation for board personnel shall not exceed that established for comparable positions as determined by the board or commission pursuant to the job and pay plan of the department of economic development. Nothing herein shall be construed to permit salaries for any board personnel to be lowered except by board action.

(6) Each board or commission shall receive complaints concerning its licensees' business or professional practices. Each board or commission shall establish by rule a procedure for the handling of such complaints prior to the filing of formal complaints before the administrative hearing commission. The rule shall provide, at a minimum, for the logging of each complaint received, the recording of the licensee's name, the name of the complaining party, the date of the complaint, and a brief statement of the complaint and its ultimate disposition. The rule shall provide for informing the complaining party of the progress of the investigation, the dismissal of the charges or the filing of a complaint before the administrative hearing commission.

16. All the powers, duties and functions of the division of athletics, chapter 317, RSMo, and others, are transferred by type I transfer to the division of professional registration. The athletic commission is abolished.

17. The state council on the arts, chapter 185, RSMo, and others, is transferred by type II transfer to the department of economic development, and the members of the council shall be appointed by the director of the department.

18. The Missouri housing development commission, chapter 215, RSMo, is assigned to the department of economic development, but shall remain a governmental instrumentality of the state of Missouri and shall constitute a body corporate and politic.

19. All the authority, powers, duties, functions, records, personnel, property, matters pending and other pertinent vestiges of the division of manpower planning of the department of social services are transferred by a type I transfer to the "Division of Job Development and Training", which is hereby created, within the department of economic development. The division of manpower planning within the department of social services is abolished. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section.

20. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

621.045. COMMISSION TO CONDUCT HEARINGS, MAKE DETERMINATIONS — BOARDS INCLUDED — SETTLEMENT AGREEMENTS. — 1. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases when, under the law, a license issued by any of the following agencies may be revoked or suspended or when the licensee may be placed on probation or when an agency refuses to permit an applicant to be examined upon his qualifications or refuses to issue or renew a license of an applicant who has passed an examination for licensure or who possesses the qualifications for licensure without examination:

Missouri State Board of Accountancy

Missouri **State** Board **[**of Registration**]** for Architects, Professional Engineers **[**and**] , Professional** Land Surveyors **and Landscape Architects**

Board of Barber Examiners

Board of Cosmetology

Board of Chiropody and Podiatry

Board of Chiropractic Examiners

Missouri Dental Board

Board of Embalmers and Funeral Directors

Board of Registration for the Healing Arts

Board of Nursing

Board of Optometry

Board of Pharmacy

Missouri Real Estate Commission

Missouri Veterinary Medical Board

Supervisor of Liquor Control

Department of Health and Senior Services

Department of Insurance

Department of Mental Health

Board of Private Investigator Examiners.

2. If in the future there are created by law any new or additional administrative agencies which have the power to issue, revoke, suspend, or place on probation any license, then those agencies are under the provisions of this law.

3. **The administrative hearing commission is authorized to conduct hearings and make findings of fact and conclusions of law in those cases brought by the Missouri state board for architects, professional engineers, professional land surveyors and landscape architects against unlicensed persons under section 327.076, RSMo.**

4. Notwithstanding any other provision of this section to the contrary, after August 28, 1995, in order to encourage settlement of disputes between any agency described in subsection 1 or 2 of this section and its licensees, any such agency shall:

(1) Provide the licensee with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of any documents which are the basis thereof and the agency's initial settlement offer, or file a contested case against the licensee;

(2) If no contested case has been filed against the licensee, allow the licensee at least sixty days, from the date of mailing, to consider the agency's initial settlement offer and to contact the agency to discuss the terms of such settlement offer;

(3) If no contested case has been filed against the licensee, advise the licensee that the licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the administrative hearing commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee; and

(4) In any contact **[**pursuant to**]** **under** this subsection by the agency or its counsel with a licensee who is not represented by counsel, advise the licensee that the licensee has the right to consult an attorney at the licensee's own expense.

[4.**]** **5.** If the licensee desires review by the administrative hearing commission **[**pursuant to**]** **under** subdivision (3) of subsection **[**3**]** **4** of this section at any time prior to the settlement becoming final, the licensee may rescind and withdraw from the settlement and any admissions of fact or law in the agreement shall be deemed withdrawn and not admissible for any purposes under the law against the licensee. Any settlement submitted to the administrative hearing commission shall not be effective and final unless and until findings of fact and conclusions of law are entered by the administrative hearing commission that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee.

[327.111. PENALTY FOR UNAUTHORIZED PRACTICE. — Any person who practices architecture in Missouri as defined in section 327.091, who is not exempt pursuant to the provisions of section 327.101, or who is not the holder of a currently valid license or certificate of authority to practice architecture in Missouri, or who pretends or attempts to use as such person's own the license or certificate of authority or the seal of another architect or who affixes his or her or another's architect's seal on any plans, specifications, drawings, or reports which have not been prepared by such person or under such person's immediate personal supervision, is guilty of a class A misdemeanor.**]**

[327.201. PENALTY FOR UNAUTHORIZED PRACTICE. — Any person who practices professional engineering in Missouri as defined in section 327.181, who is not exempt pursuant to the provisions of section 327.191 and who is not the holder of a currently valid license or certificate of authority to practice professional engineering in Missouri, or who pretends or attempts to use as such person's own the license or certificate of authority or the seal of another professional engineer, or who affixes such person's or another professional engineer's seal on any plans, specifications, drawings or reports which have not been prepared by such person or under such person's immediate personal supervision is guilty of a class A misdemeanor.**]**

[327.291. PENALTY FOR UNAUTHORIZED PRACTICE. — Any person who practices as a professional land surveyor in Missouri as defined in section 327.272, who is not a holder of a currently valid license or certificate of authority to practice professional land surveying in Missouri, or who pretends or attempts to use as such person's own the license or certificate of authority or the seal of another professional land surveyor or who affixes such person's or another professional land surveyor's seal on any map, plat, survey or other document which has not been prepared by such person or under such person's immediate personal supervision is guilty of a class A misdemeanor.**]**

[327.633. VIOLATIONS, PENALTY. — Any person violating any of the provisions of sections 327.600 to 327.635 is deemed guilty of a class A misdemeanor.**]**

[336.090. QUALIFICATIONS FOR REGISTRATION OF APPLICANT LICENSED IN ANOTHER STATE — FEES REQUIRED. — 1. Upon payment of a fee equivalent to the examination and certificate fees, an applicant who is an optometrist, registered or licensed under the laws of another state or territory of the United States, or of a foreign country or province shall, without examination, be granted a certificate of registration as a registered optometrist by the state board of optometry upon the following conditions:

(1) That the applicant is at least twenty-one years of age, of good moral character; and

(2) That the requirements for the registration or licensing of optometrists in the particular state, territory, country or province, were, at the date of the license, substantially equal to the requirements then in force in this state.

2. The board may by rule and regulation require applicants under this section to satisfactorily complete any practical examination or any examination on Missouri laws required pursuant to section 336.050.**]**

[336.200. ADVERTISING TO INCLUDE NAMES OF REGISTERED OPTOMETRISTS — PENALTY. — Any person, firm or corporation employing a registered optometrist may advertise the availability of optometric service, provided that the names of the registered optometrists providing such service are included in all printed advertisements. The violation of any provision of this section shall constitute an infraction, punishable upon conviction, by a fine of not less than twenty-five dollars nor more than two hundred dollars.**]**

[337.606. ACADEMIC REQUIREMENTS, EXEMPTIONS. — For a period of twenty-four months from July 1, 1990, applicants for licensure shall be exempted from the academic requirements of sections 337.600 to 337.639 if the committee is satisfied that the applicant has acceptable educational qualifications, or social work experience, or is currently engaged in the practice of clinical social work. After that time no person shall engage in clinical social work practice for compensation or hold himself or herself out as a licensed clinical social worker unless the person is licensed in accordance with the provisions of sections 337.600 to 337.639.**]**

[337.609. EMPLOYMENT OF LICENSED CLINICAL SOCIAL WORKERS NOT REQUIRED, WHEN. — No provision of sections 337.600 to 337.639 shall be construed to require any agency, corporation, or organization, not otherwise required by law, to employ licensed clinical social workers.**]**

[337.624. THIRD-PARTY REIMBURSEMENTS BY INSURANCE NOT MANDATED, CONSTRUCTION OF STATUTES. — 1. No part of this section or of chapter 354 or 375, RSMo, shall be construed to mandate benefits or third-party reimbursement for services of social workers in the policies or contracts of any insurance company, health services corporation, or other third-party payer.

2. This section shall not be construed to effect procedures for billing for social work services provided by agencies, corporations, or organizations which employ licensed social workers.**]**

[337.639. PRIVILEGED COMMUNICATIONS, EXCEPTIONS. — Nothing in sections 337.600 to 337.639 shall be construed to prohibit any person licensed under the provisions of sections 337.600 to 337.639 from testifying in court hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of children or any dependent person, or from seeking collaboration or consultation with professional colleagues or administrative supervisors on behalf of the client.**]**

[337.650. DEFINITIONS. — As used in sections 337.650 to 337.689, the following terms mean:

(1) "Committee", the state committee for social work established in section 337.622;

(2) "Department", the Missouri department of economic development;

(3) "Director", the director of the division of professional registration in the department of economic development;

(4) "Division", the division of professional registration;

(5) "Licensed baccalaureate social worker", any person who offers to render services to individuals, groups, organizations, institutions, corporations, government agencies or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced and licensed as a baccalaureate social worker, and who holds a current valid license to practice as a baccalaureate social worker;

(6) "Practice of baccalaureate social work", rendering, offering to render or supervising those who render to individuals, families, groups, organizations, institutions, corporations or the general public any service involving the application of methods, principles, and techniques of baccalaureate social work;

(7) "Provisional licensed baccalaureate social worker", any person who is a graduate of an accredited school of social work and meets all requirements of a licensed baccalaureate social worker, other than the supervised baccalaureate social work experience prescribed by subdivision (3) of subsection 1 of section 337.665, and who is supervised by a licensed clinical social worker or a licensed baccalaureate social worker, as defined by rule.**]**

[337.659. NO EMPLOYER REQUIRED TO EMPLOY LICENSED SOCIAL WORKERS. — No provision of sections 337.650 to 337.689 shall be construed to require any agency, corporation or organization, not otherwise required by law, to employ licensed baccalaureate social workers.**]**

[337.668. TERM OF LICENSE — RENEWAL. — The term of each license issued pursuant to the provisions of sections 337.650 to 337.689 shall be no less than twenty-four and no more than forty-eight consecutive calendar months. All licensees shall annually complete fifteen hours of continuing education units. The committee shall renew any license, other than a provisional license, upon application for a renewal, submission of documentation of the completion of the required annual hours of continuing education and payment of the fee established by the committee pursuant to the provisions of section 337.662.**]**

[337.674. NO MANDATORY THIRD-PARTY REIMBURSEMENT FOR SERVICES. — No part of this section or of chapter 354 or 375, RSMo, shall be construed to mandate benefits or third-party reimbursement for services of social workers in the policies or contracts of any insurance company, health services corporation, or other third-party payer.**]**

[337.677. RULEMAKING AUTHORITY. — 1. The committee shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 337.650 to 337.689 and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 337.650 to 337.689;

(3) The characteristics of "supervised baccalaureate experience" as that term is used in section 337.665;

(4) The standards and methods to be used in assessing competency as a licensed baccalaureate social worker, including the requirement for annual continuing education units;

(5) Establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring pursuant to the provisions of sections 337.650 to 337.689;

(6) Development of an appeal procedure for the review of decisions and rules of administrative agencies existing pursuant to the constitution or laws of this state;

(7) Establishment of a policy and procedure for reciprocity with other states, including states which do not have baccalaureate or clinical social worker licensing laws or states whose licensing laws are not substantially the same as those of this state; and

(8) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.650 to 337.689.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 337.650 to 337.689 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.**]**

[337.680. REFUSAL TO ISSUE OR RENEW LICENSE, WHEN — COMPLAINT PROCEDURE. — 1. The committee may refuse to issue or renew any license required by the provisions of sections 337.650 to 337.689 for one or any combination of causes stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 337.650 to 337.689 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of baccalaureate social work; except that the fact that a person has undergone treatment for past substance or alcohol abuse and/or has participated in a recovery program shall not by itself be cause for refusal to issue or renew a license;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a baccalaureate social worker; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of sections 337.650 to 337.689 or in obtaining permission to take any examination given or required pursuant to the provisions of sections 337.650 to 337.689;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a baccalaureate social worker;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.650 to 337.689, or of any lawful rule or regulation adopted pursuant to sections 337.650 to 337.689;

(7) Impersonation of any person holding a license or allowing any person to use the person's license or diploma from any school;

(8) Revocation or suspension of a license or other right to practice baccalaureate social work granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Final adjudication as incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice baccalaureate social work who is not licensed and currently eligible to practice pursuant to the provisions of sections 337.650 to 337.689;

(11) Obtaining a license based upon a material mistake of fact;

(12) Failure to display a valid license if so required by sections 337.650 to 337.689 or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Being guilty of unethical conduct based on the code of ethics of the National Association of Social Workers.

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 337.650 to 337.689 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may censure or place the person named in the complaint on probation on such terms and conditions as the committee deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license.**]**

[337.686. CONFIDENTIALITY REQUIREMENTS, EXCEPTIONS. — Persons licensed pursuant to the provisions of sections 337.650 to 337.689 may not disclose any information acquired from persons consulting them in their professional capacity, or be compelled to disclose such information except:

(1) With the written consent of the client, or in the case of the client's death or disability, the client's personal representative or other person authorized to sue, or the beneficiary of an insurance policy on the client's life, health or physical condition;

(2) When such information pertains to a criminal act;

(3) When the person is a child under the age of eighteen years and the information acquired by the licensee indicated that the child was the victim of a crime;

(4) When the person waives the privilege by bringing charges against the licensee;

(5) When the licensee is called upon to testify in any court or administrative hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of clients of the licensee; or

(6) When the licensee is collaborating or consulting with professional colleagues or an administrative superior on behalf of the client.**]**

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of sections 317.001, 317.006, 317.011, 317.013, 317.015, and 317.018, and the enactment of section 317.019 of section A of this act shall become effective on July 1, 2008.

Approved July 13, 2007

HB 791 [SCS HB 791]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires health carriers to provide a report of the total dollar amount and the total number of claims paid under the plan for the previous three-year period upon the employer's request

AN ACT to amend chapter 376, RSMo, by adding thereto one new section relating to the provision of certain claims information by health carriers.

SECTION

A. Enacting clause.

376.435. Claim information to be reported, when — covered lives defined.

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 376.435, to read as follows:

376.435. CLAIM INFORMATION TO BE REPORTED, WHEN — COVERED LIVES DEFINED. — 1. Beginning January 1, 2008, a health carrier providing a group health benefit plan or plans as such terms are defined in section 376.1350, to an employer who meets the requirements specified in subsection 2 of this section shall, upon request by the employer or the employer's producer of record, provide a report of the total dollar amount and total number of claims paid under the plan or plans for each of the prior three years or for each year coverage was in place if less than three years at the time of the request. In the case of an employer with multiple plans, the total dollar amounts shall be aggregated into one report. The report shall be provided within thirty days of the request; however, a health carrier shall not be required to provide such report for the employer or the employer's producer of record more than twice in any calendar year. The information provided to the employer or the employer's producer of record shall be furnished in a manner that does not individually identify any employee or other person covered by the health benefit plan and shall comply with all applicable federal and state privacy laws regarding the disclosure of health records.

2. For purposes of subsection 1 of this section, an employer is one who:

(1) Provides an employee health benefit plan with at least fifty-one covered lives either at the time of the request or at the start of the reporting period; and

(2) Has been insured continuously with the health carrier or a carrier affiliated with the health carrier for at least the preceding twenty-two months.

3. As used in this section, the term "covered lives" means employees, their spouses, and dependents insured under the health benefit plan for which a report is requested.

Approved June 30, 2007

HB 795 [SCS HCS HB 795]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding sales and transient guest taxes; theater, cultural arts, and entertainment districts; municipal code violations in Kansas City; and certain directors of public water supply districts

AN ACT to repeal sections 67.1000, 67.1360, 67.2500, 67.2510, 89.010, 89.400, 94.837, 247.060, 479.010, and 479.011, RSMo, and section 67.2505 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill nos. 795, 972, 1128 & 1161 merged with house substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, second regular session, and section 67.2505, as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 833 merged with house committee substitute for senate substitute for senate bill no. 732, ninety-second general assembly, second regular session, and to enact in lieu thereof thirteen new sections relating to local public improvements.

SECTION

A. Enacting clause.

67.997. Senior services and youth program sales tax — ballot language — trust fund created, use of moneys (Perry County).

67.1000. Transient guests to pay tax on sleeping rooms in hotels and motels, purpose to fund convention and visitors bureau, any county and certain cities.
67.1360. Transient guests to pay tax for funding the promotion of tourism, certain cities and counties, vote required.
67.2500. Establishment of a district, where — definitions.
67.2505. Purpose of district — name — size — subdistricts permitted — procedure for establishment of a district.
67.2510. Alternative procedure for establishment of a district.
89.010. Applicability of law — conflict with zoning provisions of another political subdivision, which to previal.
89.400. Commission to make recommendations to council on plats, when — conflict with zoning provisions of another political subdivsion,, which to prevail.
92.500. Sales tax for the operation of public safety departments — ballot submission (St. Louis).
94.837. Transient guest tax (Canton, LaGrange, Edina, special charter cities).
247.060. Board of directors — powers — qualifications — appointment — terms — vacancies, how filled — elections held, when, procedure.
479.010. Violation of municipal ordinances, jurisdiction.
479.011. Administrative adjudication of certain code violations in St. Louis City and Kansas City — authorization, rules requirements — tribunal designated by ordinance, procedures — evidence reviewed — imprisonment and fines limited — judicial review, lien imposed, when.
67.2505. Formation of a district, name of, size — subdistricts authorized — procedure for establishing a district.

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

SECTION A. ENACTING CLAUSE. — Sections 67.1000, 67.1360, 67.2500, 67.2510, 89.010, 89.400, 94.837, 247.060, 479.010, and 479.011, RSMo, and section 67.2505 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill nos. 795, 972, 1128 & 1161 merged with house substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, second regular session, and section 67.2505, as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 833 merged with house committee substitute for senate substitute for senate bill no. 732, ninety-second general assembly, second regular session, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 67.997, 67.1000, 67.1360, 67.2500, 67.2505, 67.2510, 89.010, 89.400, 92.500, 94.837, 247.060, 479.010, and 479.011, to read as follows:

67.997. SENIOR SERVICES AND YOUTH PROGRAM SALES TAX — BALLOT LANGUAGE — TRUST FUND CREATED, USE OF MONEYS (PERRY COUNTY). — 1. The governing body of any county of the third classification without a township form of government and with more than eighteen thousand one hundred but fewer than eighteen thousand two hundred inhabitants may impose, by order or ordinance, a sales tax on all retail sales made within the county which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not exceed one-fourth of one percent, and shall be imposed solely for the purpose of funding senior services and youth programs provided by the county. One-half of all revenue collected under this section, less one-half the cost of collection shall be used solely to fund any service or activity deemed necessary by the senior service tax commission established in this section, and one-half of all revenue collected under this section, less one-half the cost of collection shall be used solely to fund all youth programs administered by an existing county community task force. 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 order or ordinance shall not become effective unless the governing body of the county submits to the voters residing within the county at a state general, primary, or special election a proposal to authorize the governing body of the county to impose a tax under this section.

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 county) impose a sales tax at a rate of ..... (insert rate of percent) percent, with half of the revenue from the tax, less one-half the cost of collection, to be used solely to fund senior services provided by the county and half of the

revenue from the tax, less one-half the cost of collection, to be used solely to fund youth programs provided by 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 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 the approval of the tax or notification to the department of revenue administered by 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.

3. On or after the effective date of any tax authorized under this section, the county which imposed the tax shall enter into an agreement with the director of the department of revenue for the purpose of collecting the tax authorized in this section. On or after the effective date of the tax the director of revenue shall be responsible for the administration, collection, enforcement, and operation of the tax, and sections 32.085 and 32.087, RSMo, shall apply. All revenue collected under this section by the director of the department of revenue on behalf of any county, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Senior Services and Youth Programs Sales Tax Trust Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the trust fund and credited to the county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such county. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. In order to permit sellers required to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting the tax, or to serve as a levy of the tax, and in order to avoid fractions of pennies, the governing body of the county may authorize the use of a bracket system similar to that authorized in section 144.285, RSMo, and notwithstanding the provisions of that section, this new bracket system shall be used where this tax is imposed and shall apply to all taxable transactions. Beginning with the effective date of the tax, every retailer in the county shall add the sales tax to the sale price, and this tax shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. For purposes of this section, all retail sales shall be deemed to be consummated at the place of business of the retailer.

5. All applicable provisions in sections 144.010 to 144.525, RSMo, governing the state sales tax, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax, and all exemptions granted to agencies of government, organizations, and persons under sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax. The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that, the director of revenue may prescribe a form of exemption certificate for an exemption from the tax. All discounts allowed the retailer under the state

sales tax for the collection of and for payment of taxes are hereby allowed and made applicable to the tax. The penalties for violations provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, are hereby made applicable to violations of this section. If any person is delinquent in the payment of the amount required to be paid under this section, or in the event a determination has been made against the person for taxes and penalty under this section, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525, RSMo.

6. The governing body of any 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 county. The ballot of submission shall be in substantially the following form:

Shall ..... (insert the name of the county) repeal the sales tax imposed at a rate of ..... (insert rate of percent) percent for the purpose of funding senior services and youth programs provided by 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 question by the qualified voters voting thereon 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 and the repeal is approved by a majority of the qualified voters voting on the question.

7. Whenever the governing body of any county that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the 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 of the county a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

8. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the county shall notify the director of the department of revenue of the action at least thirty days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director shall remit the balance in the account to the county and close the account of that county. The director shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

9. Each county imposing the tax authorized in this section shall establish a senior services tax commission to administer the portion of the sales tax revenue dedicated to providing senior services. Such commission shall consist of seven members appointed by the county commission. The county commission shall determine the qualifications, terms

of office, compensation, powers, duties, restrictions, procedures, and all other necessary functions of the commission.

67.1000. TRANSIENT GUESTS TO PAY TAX ON SLEEPING ROOMS IN HOTELS AND MOTELS, PURPOSE TO FUND CONVENTION AND VISITORS BUREAU, ANY COUNTY AND CERTAIN CITIES. — 1. The governing body of any county or of any city which is the county seat of any county or which now or hereafter has a population of more than three thousand five hundred inhabitants and which has heretofore been authorized by the general assembly, or of any other city which has a population of more than eighteen thousand and less than forty-five thousand inhabitants located in a county of the first classification with a population over two hundred thousand adjacent to a county of the first classification with a population over nine hundred thousand, 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, 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 an election permitted under section 115.123, RSMo, a proposal to authorize the governing body of the city or county to impose a tax under the provisions of this section and section 67.1002. The tax authorized by this section and section 67.1002 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 funding a convention and visitors bureau which shall be a general not-for-profit organization with whom the city or county has contracted, and which is established for the purpose of promoting the city or county as a convention, visitor and tourist center. Such tax shall be stated separately from all other charges and taxes.

2. In any county of the third classification without a township form of government and with more than forty-one thousand one hundred but fewer than forty-one thousand two hundred inhabitants, "transient guests", as used in this section and section 67.1002, means a person or persons who occupy a room or rooms in a hotel or motel for ninety days or less during any calendar quarter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) Any city of the fourth classification with more than five thousand two hundred but less than five thousand three hundred inhabitants located in a county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants;

(24) Any third class city with a population of more than nineteen thousand nine hundred but less than twenty thousand in a county of the first classification without a charter form of

government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(25) Any city of the fourth classification with more than two thousand six hundred but less than two thousand seven hundred inhabitants located in any county of the third classification without a township form of government and with more than fifteen thousand three hundred but less than fifteen thousand four hundred inhabitants;

(26) Any county of the third classification without a township form of government and with more than fourteen thousand nine hundred but less than fifteen thousand inhabitants;

(27) Any city of the fourth classification with more than five thousand four hundred but fewer than five thousand five hundred inhabitants and located in more than one county;

(28) Any city of the fourth classification with more than six thousand three hundred but fewer than six thousand five hundred inhabitants and located in more than one county **through the creation of a tourism district which may include, in addition to the geographic area of such city, the area encompassed by the portion of the school district, located within a county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants, having an average daily attendance for school year 2005-2006 between one thousand eight hundred and one thousand nine hundred**;

(29) Any city of the fourth classification with more than seven thousand seven hundred but less than seven thousand eight hundred inhabitants located in a county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants;

(30) Any city of the fourth classification with more than two thousand nine hundred but less than three thousand inhabitants located in a county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants; or

(31) Any city of the third classification with more than nine thousand three hundred but less than nine thousand four hundred inhabitants;

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

67.2500. ESTABLISHMENT OF A DISTRICT, WHERE — DEFINITIONS. — 1. **A theater, cultural arts, and entertainment district may be established in the manner provided in section 67.2505 by** the governing body of any **county, city, town, or village that has adopted transect-based zoning under chapter 89, RSMo, any county described in this subsection, or any** city, town, or village that is within **[**a first class county with a charter form of government with a population over two hundred fifty thousand that adjoins a first class county with a charter form of government with a population over nine hundred thousand, or that is within**]** **such counties:**

(1) Any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants**[**, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2505**];**

(2) Any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants;

(3) Any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants;

(4) Any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants;

(5) Any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants;

(6) 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.

2. Sections 67.2500 to 67.2530 shall be known as the "Theater, Cultural Arts, and Entertainment District Act".

3. As used in sections 67.2500 to 67.2530, the following terms mean:

(1) "District", a theater, cultural arts, and entertainment district organized under this section;

(2) "Qualified electors", "qualified voters", or "voters", registered voters residing within the district or subdistrict, or proposed district or subdistrict, who have registered to vote pursuant to chapter 115, RSMo, or, if there are no persons eligible to be registered voters residing in the district or subdistrict, proposed district or subdistrict, property owners, including corporations and other entities, that are owners of real property;

(3) "Registered voters", persons qualified and registered to vote pursuant to chapter 115, RSMo; and

(4) "Subdistrict", a subdivision of a district, but not a separate political subdivision, created for the purposes specified in subsection 5 of section 67.2505.

67.2505. PURPOSE OF DISTRICT — NAME — SIZE — SUBDISTRICTS PERMITTED — PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — 1. A district may be created to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, **infrastructure,** transportation projects, and related facilities in the district.

2. A district is a political subdivision of the state.

3. The name of a district shall consist of a name chosen by the original petitioners, preceding the words "theater, cultural arts, and entertainment district".

4. The district shall include a minimum of **[**fifty**]** **twenty-five** contiguous acres.

5. Subdistricts shall be formed for the purpose of voting upon proposals for the creation of the district or subsequent proposed subdistrict, voting upon the question of imposing a proposed sales tax, and for representation on the board of directors, and for no other purpose.

6. Whenever the creation of a district is desired, one or more registered voters from each subdistrict of the proposed district, or one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district, may file a petition requesting the creation of a district with the governing body of the city, town, or village within which the proposed district is to be established. The petition shall contain the following information:

(1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;

(2) The name of the proposed district;

(3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;

(4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;

(5) A request that the district be established;

(6) A general description of the activities that are planned for the district;

(7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposition of the sales tax be submitted to the qualified voters within the district;

(8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;

(9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;

(10) A signed statement that the petitioners are authorized to submit the petition to the governing body; and

(11) Any other items the petitioners deem appropriate.

7. Upon the filing **and approval** of a petition pursuant to this section, the governing body of any city, town, or village described in this section **[**may**]** **shall** pass a resolution containing the following information:

(1) A description of the boundaries of the proposed district and each subdistrict;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The time frame and manner for the filing of protests;

(4) The proposed sales tax rate to be voted upon within the subdistricts of the proposed district;

(5) The proposed uses for the revenue to be generated by the new sales tax; and

(6) Such other matters as the governing body may deem appropriate.

8. Prior to the governing body certifying the question of the district's creation and imposing a sales tax for approval by the qualified electors, a hearing shall be held as provided by this subsection. The governing body of the municipality approving a resolution as set forth in subsection 7 of this section shall:

(1) Publish notice of the hearing, which shall include the information contained in the resolution cited in subsection 7 of this section, on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, 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;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Consider all protests, which determinations shall be final.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

9. Following the hearing, the governing body of any city, town, or village within which the proposed district will be located may order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the municipal clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing of the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the governing body. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

10. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the governing body may establish the proposed district in those subdistricts approving the

question of creating the district and imposing the sales tax by adopting an ordinance to that effect. The ordinance establishing the district shall contain the following:

(1) The description of the boundaries of the district and each subdistrict;

(2) A statement that a theater, cultural arts, and entertainment district has been established;

(3) A declaration that the district is a political subdivision of the state;

(4) The name of the district;

(5) The date on which the sales tax election in the subdistricts was held, and the result of the election;

(6) The uses for any revenue generated by a sales tax imposed pursuant to this section;

(7) A certification to the newly created district of the election results, including the election concerning the sales tax; and

(8) Such other matters as the governing body deems appropriate.

11. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax before the voters of a proposed subdistrict, and the municipal clerk, or circuit clerk if the district is formed by the circuit court, shall conduct the election. In subsequent elections, the election judges shall certify the election results to the district board of directors.

67.2510. ALTERNATIVE PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — As a complete alternative to the procedure establishing a district set forth in section 67.2505, **a theater, cultural arts, and entertainment district may be established in the manner provided in section 67.2515 by** a circuit court with jurisdiction over any **county, city, town, or village that has adopted transect-based zoning under chapter 89, RSMo, any county described in this section, or any** city, town, or village that is within **[**a first class county with a charter form of government with a population over two hundred fifty thousand that adjoins a first class county with a charter form of government with a population over nine hundred thousand, or that is within**] such counties:**

(1) Any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants**[**, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2515**];**

(2) Any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants;

(3) Any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants;

(4) Any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants;

(5) Any county of the first classification with more than one hundred thirty-five thousand four hundred but fewer than one hundred thirty-five thousand five hundred inhabitants;

(6) 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.

89.010. APPLICABILITY OF LAW — CONFLICT WITH ZONING PROVISIONS OF ANOTHER POLITICAL SUBDIVISION, WHICH TO PREVIAL. — 1. The provisions of sections 89.010 to 89.140 shall apply to all cities, towns and villages in this state.

2. (1) As used in this subsection, "transect-based zoning" means a zoning classification system that prescriptively arranges uses, elements, and environments

according to a geographic cross-section that range across a continuum from rural to urban, with the range of environments providing the basis for organizing the components of the constructed world, including buildings, lots, land use, street, and all other physical elements of the human habitat, with the objective of creating sustainable communities and emphasizing bicycle lanes, street connectivity, and sidewalks, and permitting high-density and mixed use development in urban areas.

(2) In the event that any city, town, or village adopts a zoning or subdivision ordinance based on transect-based zoning, and such transect-based zoning provisions conflict with the zoning provisions adopted by code or ordinance of another political subdivision with jurisdiction in such city, town, or village, the transect-based zoning provisions governing street configuration requirements, including number and locations of parking spaces, street, drive lane, and cul-de-sac lengths and widths, turning radii, and improvements within the right-of-way, shall prevail over any other conflicting or more restrictive zoning provisions adopted by code or ordinance of the other political subdivision.

89.400. COMMISSION TO MAKE RECOMMENDATIONS TO COUNCIL ON PLATS, WHEN — CONFLICT WITH ZONING PROVISIONS OF ANOTHER POLITICAL SUBDIVSION,, WHICH TO PREVAIL. — 1. When the planning commission of any municipality adopts a city plan which includes at least a major street plan or progresses in its city planning to the making and adoption of a major street plan, and files a certified copy of the major street plan in the office of the county recorder of the county in which the municipality is located, no plat of a subdivision of land lying within the municipality shall be filed or recorded until it has been submitted to and a report and recommendation thereon made by the commission to the city council and the council has approved the plat as provided by law.

2. (1) As used in this subsection, "transect-based zoning" means a zoning classification system that prescriptively arranges uses, elements, and environments according to a geographic cross-section that range across a continuum from rural to urban, with the range of environments providing the basis for organizing the components of the constructed world, including buildings, lots, land use, street, and all other physical elements of the human habitat, with the objective of creating sustainable communities and emphasizing bicycle lanes, street connectivity, and sidewalks, and permitting high-density and mixed use development in urban areas.

(2) In the event that any city, town, or village adopts a zoning or subdivision ordinance based on transect-based zoning, and such transect-based zoning provisions conflict with the zoning provisions adopted by code or ordinance of another political subdivision with jurisdiction in such city, town, or village, the transect-based zoning provisions governing street configuration requirements, including number and locations of parking spaces, street, drive lane, and cul-de-sac lengths and widths, turning radii, and improvements within the right-of-way, shall prevail over any other conflicting or more restrictive zoning provisions adopted by code or ordinance of the other political subdivision.

92.500. SALES TAX FOR THE OPERATION OF PUBLIC SAFETY DEPARTMENTS — BALLOT SUBMISSION (ST. LOUIS). — 1. The governing body of any city not within a county may impose, by order or ordinance, a sales tax on all retail sales made within the city which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not exceed one-half of one percent, and shall be imposed solely for the purpose of providing revenues for the operation of public safety departments, including police and fire departments, which operations are defined to include, but not be limited to, compensation, pension programs, and health care for employees and pensioners of the public safety departments. 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

order or ordinance shall not become effective unless the governing body of the city submits to the voters residing within the city at a state general, primary, or special election a proposal to authorize the governing body of the city to impose a tax under this section.

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 sales tax at a rate of .....(insert rate of percent) percent, solely for the purpose of providing revenues for the operation of public safety departments of the city, including hiring more police officers, prosecuting more criminals, nuisance crimes, and problem properties?

[ ] 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 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.

94.837. TRANSIENT GUEST TAX (CANTON, LAGRANGE, EDINA, SPECIAL CHARTER CITIES). — 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.

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 shall be held in April pursuant to section 247.180.

4. In 2008, 2009, and 2010, directors elected in such years shall serve from the first Tuesday after the first Monday in June until the first Tuesday in April of the third year following the year of their election. All directors elected thereafter shall serve from the first Tuesday in April until the first Tuesday in April of the third year following the year of their election.

479.010. VIOLATION OF MUNICIPAL ORDINANCES, JURISDICTION. — Violations of municipal ordinances shall be **[**tried**]** **heard and determined** only before divisions of the circuit court as hereinafter provided in this chapter. **"Heard and determined", for purposes of this chapter, shall mean any process under which the court in question retains the final authority to make factual determinations pertaining to allegations of a municipal ordinance violation, including, but not limited to, the use of a system of administrative adjudication as provided in section 479.011, preliminary to a determination by appeal to the court in question.**

479.011. ADMINISTRATIVE ADJUDICATION OF CERTAIN CODE VIOLATIONS IN ST. LOUIS CITY AND KANSAS CITY — AUTHORIZATION, RULES REQUIREMENTS — TRIBUNAL DESIGNATED BY ORDINANCE, PROCEDURES — EVIDENCE REVIEWED — IMPRISONMENT AND FINES LIMITED — JUDICIAL REVIEW, LIEN IMPOSED, WHEN. — 1. Any 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 establish, by order or ordinance, an administrative

system for adjudicating parking and other **civil,** nonmoving municipal code violations consistent with applicable state law. Such administrative adjudication system shall be subject to practice, procedure, and pleading rules established by the state supreme court, circuit court, or municipal court. This section shall not be construed to affect the validity of other administrative adjudication systems authorized by state law and created before August 28, 2004.

2. The order or ordinance creating the administrative adjudication system shall designate the administrative tribunal and its jurisdiction, including the code violations to be reviewed. The administrative tribunal may operate under the supervision of the municipal court, parking commission, or other entity designated by order or ordinance and in a manner consistent with state law. The administrative tribunal shall adopt policies and procedures for administrative hearings, and filing and notification requirements for appeals to the municipal or circuit court, subject to the approval of the municipal or circuit court.

3. The administrative adjudication process authorized in this section shall ensure a fair and impartial review of contested municipal code violations, and shall afford the parties due process of law. The formal rules of evidence shall not apply in any administrative review or hearing authorized in this section. Evidence, including hearsay, may be admitted only if it is the type of evidence commonly relied upon by reasonably prudent persons in the conduct of their affairs. The code violation notice, property record, and related documentation in the proper form, or a copy thereof, shall be prima facie evidence of the municipal code violation. The officer who issued the code violation citation need not be present.

4. An administrative tribunal may not impose incarceration or any fine in excess of the amount allowed by law. Any sanction, fine or costs, or part of any fine, other sanction, or costs, remaining unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures under chapter 536, RSMo, shall be a debt due and owing the city, and may be collected in accordance with applicable law.

5. Any final decision or disposition of a code violation by an administrative tribunal shall constitute a final determination for purposes of judicial review**[**,**] . Such determination is** subject to review under chapter 536, RSMo**, or, at the request of the defendant made within ten days, a trial de novo in the circuit court**. After expiration of the judicial review period under chapter 536, RSMo, unless stayed by a court of competent jurisdiction, the administrative tribunal's decisions, findings, rules, and orders may be enforced in the same manner as a judgment entered by a court of competent jurisdiction. Upon being recorded in the manner required by state law or the uniform commercial code, a lien may be imposed on the real or personal property of any defendant entering a plea of nolo contendere, pleading guilty to, or found guilty of a municipal code violation in the amount of any debt due the city under this section and enforced in the same manner as a judgment lien under a judgment of a court of competent jurisdiction.

[67.2505. FORMATION OF A DISTRICT, NAME OF, SIZE — SUBDISTRICTS AUTHORIZED — PROCEDURE FOR ESTABLISHING A DISTRICT. — 1. A district may be created to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district.

2. A district is a political subdivision of the state.

3. The name of a district shall consist of a name chosen by the original petitioners, preceding the words "theater, cultural arts, and entertainment district".

4. The district shall include a minimum of fifty contiguous acres.

5. Subdistricts shall be formed for the purpose of voting upon proposals for the creation of the district or subsequent proposed subdistrict, voting upon the question of imposing a proposed sales tax, and for representation on the board of directors, and for no other purpose.

6. Whenever the creation of a district is desired, one or more registered voters from each subdistrict of the proposed district, or one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district, may file a petition requesting the creation of a district with the governing body of the city, town, or village within which the proposed district is to be established. The petition shall contain the following information:

(1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;

(2) The name of the proposed district;

(3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;

(4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;

(5) A request that the district be established;

(6) A general description of the activities that are planned for the district;

(7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposition of the sales tax be submitted to the qualified voters within the district;

(8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;

(9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;

(10) A signed statement that the petitioners are authorized to submit the petition to the governing body; and

(11) Any other items the petitioners deem appropriate.

7. Upon the filing of a petition pursuant to this section, the governing body of any city, town, or village described in this section may pass a resolution containing the following information:

(1) A description of the boundaries of the proposed district and each subdistrict;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The time frame and manner for the filing of protests;

(4) The proposed sales tax rate to be voted upon within the subdistricts of the proposed district;

(5) The proposed uses for the revenue to be generated by the new sales tax; and

(6) Such other matters as the governing body may deem appropriate.

8. Prior to the governing body certifying the question of the district's creation and imposing a sales tax for approval by the qualified electors, a hearing shall be held as provided by this subsection. The governing body of the municipality approving a resolution as set forth in section 67.2520 shall:

(1) Publish notice of the hearing, which shall include the information contained in the resolution cited in section 67.2520, on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, 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;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Consider all protests, which determinations shall be final.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

9. Following the hearing, the governing body of any city, town, or village within which the proposed district will be located may order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the municipal clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing of the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the governing body. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

10. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the governing body may establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax by adopting an ordinance to that effect. The ordinance establishing the district shall contain the following:

(1) The description of the boundaries of the district and each subdistrict;

(2) A statement that a theater, cultural arts, and entertainment district has been established;

(3) A declaration that the district is a political subdivision of the state;

(4) The name of the district;

(5) The date on which the sales tax election in the subdistricts was held, and the result of the election;

(6) The uses for any revenue generated by a sales tax imposed pursuant to this section;

(7) A certification to the newly created district of the election results, including the election concerning the sales tax; and

(8) Such other matters as the governing body deems appropriate.

11. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax before the voters of a proposed subdistrict, and the municipal clerk, or circuit clerk if the district is formed by the circuit court, shall conduct the election. In subsequent elections, the election judges shall certify the election results to the district board of directors.**]**

Approved June 30, 2007

HB 801 [HB 801]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Removes the expiration date for the provision restricting political subdivisions from providing certain telecommunication services or facilities

AN ACT to repeal section 392.410, RSMo, and to enact in lieu thereof one new section relating to telecommunications.

SECTION

A. Enacting clause.

392.410. Certificate of public convenience and necessity required, exception — certificate of interexchange service authority, required when — duration of certificates — temporary certificates, issued when — political subdivisions restricted from providing certain telecommunications services or facilities, expiration date.

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

SECTION A. ENACTING CLAUSE. — Section 392.410, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 392.410, to read as follows:

392.410. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED, EXCEPTION — CERTIFICATE OF INTEREXCHANGE SERVICE AUTHORITY, REQUIRED WHEN — DURATION OF CERTIFICATES — TEMPORARY CERTIFICATES, ISSUED WHEN — POLITICAL SUBDIVISIONS RESTRICTED FROM PROVIDING CERTAIN TELECOMMUNICATIONS SERVICES OR FACILITIES, EXPIRATION DATE. — 1. A telecommunications company not possessing a certificate of public convenience and necessity from the commission at the time this section goes into effect shall have not more than ninety days in which to apply for a certificate of service authority from the commission pursuant to this chapter unless a company holds a state charter issued in or prior to the year 1913 which charter authorizes a company to engage in the telephone business. No telecommunications company not exempt from this subsection shall transact any business in this state until it shall have obtained a certificate of service authority from the commission pursuant to the provisions of this chapter, except that any telecommunications company which is providing telecommunications service on September 28, 1987, and which has not been granted or denied a certificate of public convenience and necessity prior to September 28, 1987, may continue to provide that service exempt from all other requirements of this chapter until a certificate of service authority is granted or denied by the commission so long as the telecommunications company applies for a certificate of service authority within ninety days from September 28, 1987.

2. No telecommunications company offering or providing, or seeking to offer or provide, any interexchange telecommunications service shall do so until it has applied for and received a certificate of interexchange service authority pursuant to the provisions of subsection 1 of this section. No telecommunications company offering or providing, or seeking to offer or provide, any local exchange telecommunications service shall do so until it has applied for and received a certificate of local exchange service authority pursuant to the provisions of section 392.420.

3. No certificate of service authority issued by the commission shall be construed as granting a monopoly or exclusive privilege, immunity or franchise. The issuance of a certificate of service authority to any telecommunications company shall not preclude the commission from issuing additional certificates of service authority to another telecommunications company providing the same or equivalent service or serving the same geographical area or customers as any previously certified company, except to the extent otherwise provided by section 392.450.

4. Any certificate of public convenience and necessity granted by the commission to a telecommunications company prior to September 28, 1987, shall remain in full force and effect unless modified by the commission, and such companies need not apply for a certificate of service authority in order to continue offering or providing service to the extent authorized in such certificate of public convenience and necessity. Any such carrier, however, prior to substantially altering the nature or scope of services provided under a certificate of public convenience and necessity, or adding or expanding services beyond the authority contained in such certificate, shall apply for a certificate of service authority for such alterations or additions pursuant to the provisions of this section.

5. The commission may review and modify the terms of any certificate of public convenience and necessity issued to a telecommunications company prior to September 28, 1987, in order to ensure its conformity with the requirements and policies of this chapter. Any certificate of service authority may be altered or modified by the commission after notice and

hearing, upon its own motion or upon application of the person or company affected. Unless exercised within a period of one year from the issuance thereof, authority conferred by a certificate of service authority or a certificate of public convenience and necessity shall be null and void.

6. The commission may issue a temporary certificate which shall remain in force not to exceed one year to assure maintenance of adequate service or to serve particular customers, without notice and hearing, pending the determination of an application for a certificate.

7. No political subdivision of this state shall provide or offer for sale, either to the public or to a telecommunications provider, a telecommunications service or telecommunications facility used to provide a telecommunications service for which a certificate of service authority is required pursuant to this section. Nothing in this subsection shall be construed to restrict a political subdivision from allowing the nondiscriminatory use of its rights-of-way including its poles, conduits, ducts and similar support structures by telecommunications providers or from providing to telecommunications providers, within the geographic area in which it lawfully operates as a municipal utility, telecommunications services or telecommunications facilities on a nondiscriminatory, competitively neutral basis, and at a price which covers cost, including imputed costs that the political subdivision would incur if it were a for- profit business. Nothing in this subsection shall restrict a political subdivision from providing telecommunications services or facilities:

(1) For its own use;
(2) For 911, E-911 or other emergency services;
(3) For medical or educational purposes;
(4) To students by an educational institution; or
(5) Internet-type services.

[The provisions of this subsection shall expire on August 28, 2007**.]**

8. The public service commission shall annually study the economic impact of the provisions of this section and prepare and submit a report to the general assembly by December thirty-first of each year.

Approved June 13, 2007

HB 818 [SS#2 SCS HCS HB 818]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Missouri Health Insurance Portability and Accountability Act and changes the laws regarding the Missouri Health Insurance Pool and health care insurance

AN ACT to repeal sections 103.085, 143.121, 143.782, 313.321, 376.426, 376.776, 376.960, 376.961, 376.964, 376.966, 376.986, 376.989, 379.930, 379.936, 379.938, 379.940, 379.942, 379.943, 379.944, and 379.952, RSMo, and to enact in lieu thereof forty-nine new sections relating to health insurance, with an effective date for certain sections.

SECTION

A. Enacting clause.
103.080. High deductible plans and health savings accounts to be offered — definitions — rulemaking authority.
103.085. Termination of coverage, when, exceptions, certain persons may choose to continue coverage, requirements.
143.118. Health care sharing ministry deduction — rulemaking authority.
143.119. Federal health insurance deduction, state tax credit — rulemaking authoirty.
143.121. Missouri adjusted gross income.
143.782. Definitions.

143.790. Unpaid health care services to hospitals or health care provisders, claim may be made on debtor's tax refund — remainder to be debt of department of health and senior services.
191.912. Prenatally diagnosed conditions, patient to be provided information — definitions — clearing house of information to be established.
313.321. State lottery fund, established — distribution of funds — imprest prize fund, created, uses — collection, investment, use of lottery funds — taxation, set-off of prizes, when — restrictions for licensees.
354.536. Continuation of dependent child coverage, when — dependent child defined.
376.392. Prescription drug formularies, enrollees to be notified of changes to, when.
376.426. Group health policies, required provisions.
376.450. Citation of law — definitions.
376.451. Standards prohibiting discrimination.
376.452. Large group market, renewal or continuation of coverage required — nonrenewal or discontinuation permitted, when — conditions for discontinuation.
376.453. Premium — only cafeteria plans required, when.
376.454. Individual market, renewal or continuation at option of individual — nonrenewal or discontinuation permitted, when — discontinuation of a type of coverage, procedure.
376.776. Hospital and medical expense provisions extended for certain handicapped and dependent children past normal coverage age.
376.960. Definitions.
376.961. Missouri health insurance pool created — members to be all health insurers in state — board of directors, members, terms, qualifications.
376.964. Board, powers and duties — including providing for issuing policies and reinsuring risks — staff appointment — rulemaking authority.
376.966. No employee to lose coverage by enrolling in pool — eligibility for pool coverage, ineligiblity — medical underwriting considerations, notification required, when.
376.986. Pool to offer medical coverage — premiums, how established — standard risk rate, how calculated — director to approve rates — exclusions — benefits reduced by other insurance or workers' compensation — medical expense to include prayer for spiritual healing.
376.987. High deductible health plans and establishment of health savings plans to be offered as options — definitions — rylemaking authority.
376.989. No liability, criminal or civil, for participation in pool by members.
376.990. Study to be conducted on financing of the state health insurance pool, contents, report.
376.1500. Definitions.
376.1502. Requirements for transaction of business
376.1504. Registration requirements — term of registration — renewal.
376.1506. Violations, penalty.
376.1508. Processing fee — cancellation of membership, effect of.
376.1510. Prohibited acts.
376.1512. Required disclosures.
376.1514. Written agreement required, contents.
376.1516. Written membership materials, required contents — forms to be filed with director, fee.
376.1518. Net worth to be maintained, amount.
376.1520. Notice of changes.
376.1522. List of providers to be maintained on web site.
376.1524. Advertising and marketing materials, approval in writing required.
376.1528. Rulemaking authority.
376.1530. Denial and refusal to issue registrations, when.
376.1532. Violations, penalties.
376.1750. Health care sharing ministry, provisions not to apply to — ministry not engaging in the business of insurance, when — health care sharing ministry defined.
376.1753. Services related to pregnancy, persons holding ministerial or tocological certification may provide.
379.930. Small employer health insurance availability act — definitions.
379.936. Premium rates, subject to conditions — no transfer out of class of business — disclosure required, contents — rating and renewal records required to be kept.
379.938. Renewability, exceptions — carrier not renewing prohibited from writing new business in market, when — application of section in certain geographic areas.
379.940. Carriers to offer all health plans in market — health benefit plans, requirements — exclusion of coverage for certain employees.
379.952. Carriers to market plan coverage — agent or broker, prohibited activities, exception — variance in compensation prohibited, exceptions — carriers, prohibited activities — denial of application, requirements — penalty — applicability to third party administrators.
379.942. Missouri small employer health reinsurance program created — mandatory participation — opt out, director's determination — board members, qualifications — expansion of board, when — terms, vacancies — filing requirements.
379.943. Plan of operation, contents, powers — reinsurance of small employer group — premium rates, review — report to director, formula to be developed — standards of compensation — exemption from taxation — director to assess companies, payment of assessment — expiration date.

379.944. Health benefit plan committee, appointment — members, qualifications — duties, recommendations, plans, contents — submission for approval.
B. Effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 103.085, 143.121, 143.782, 313.321, 376.426, 376.776, 376.960, 376.961, 376.964, 376.966, 376.986, 376.989, 379.930, 379.936, 379.938, 379.940, 379.942, 379.943, 379.944, and 379.952, RSMo, are repealed and forty-nine new sections enacted in lieu thereof, to be known as sections 103.080, 103.085, 143.118, 143.119, 143.121, 143.782, 143.790, 191.912, 313.321, 354.536, 376.392, 376.426, 376.450, 376.451, 376.452, 376.453, 376.454, 376.776, 376.960, 376.961, 376.964, 376.966, 376.986, 376.987, 376.989, 376.990, 376.1500, 376.1502, 376.1504, 376.1506, 376.1508, 376.1510, 376.1512, 376.1514, 376.1516, 376.1518, 376.1520, 376.1522, 376.1524, 376.1528, 376.1530, 376.1532, 376.1750, 376.1753, 379.930, 379.936, 379.938, 379.940, and 379.952, to read as follows:

103.080. HIGH DEDUCTIBLE PLANS AND HEALTH SAVINGS ACCOUNTS TO BE OFFERED — DEFINITIONS — RULEMAKING AUTHORITY. — 1. As used in this section, the following terms shall mean:

(1) "Health savings account" or "account", shall have the same meaning ascribed to it as in 26 U.S.C. Section 223(d), as amended;

(2) "High deductible health plan", a policy or contract of health insurance or health care plan that meets the criteria established in 26 U.S.C. Section 223(c)(2), as amended, and any regulations promulgated thereunder.

2. Beginning with the open enrollment period for the 2009 plan year, the board shall offer to all qualified state employees and retirees, in addition to the plans currently offered including but not limited to health maintenance organization plans, preferred provider organization plans, copay plans, and participating public entities the option of receiving health care coverage through a high deductible health plan and the establishment of a health savings account. In no instance shall a qualified employee or retiree be required to enroll in a high deductible health plan with a deductible greater than the minimum allowed by law, however, a qualified employee shall have the option to enroll in a high deductible health plan up to the maximum allowed by law. The health savings account shall conform to the guidelines to be established by the Internal Revenue Service for the 2009 tax year but in no case shall a qualified employee or retiree be required to contribute more than the minimum amount allowed by law. A qualified employee may contribute up to the maximum allowed by law. In order for a qualified individual to obtain a high deductible health plan through the Missouri consolidated health care plan, such individual shall present evidence, in a manner prescribed by regulation, to the board that he or she has established a health savings account in compliance with 26 U.S.C. Section 223, and any amendments and regulations promulgated thereto.

3. The board is authorized to promulgate rules and regulations for the administration and 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, 2007, shall be invalid and void.

4. The board shall issue a request for proposals from companies interested in offering a high deductible health plan in connection with a health savings account.

103.085. TERMINATION OF COVERAGE, WHEN, EXCEPTIONS, CERTAIN PERSONS MAY CHOOSE TO CONTINUE COVERAGE, REQUIREMENTS. — Except as otherwise provided by sections 103.003 to **[**103.175**]** **103.080**, medical benefits coverage as provided by sections 103.003 to **[**103.175**]** **103.080** shall terminate when the member ceases to be an active employee; except persons receiving or entitled to receive an annuity or retirement benefit or disability benefit or the spouse of or unemancipated children of deceased persons receiving or entitled to receive an annuity or retirement benefit or disability benefit from the state, participating member agency, institution, political subdivision or governmental entity may elect to continue coverage, provided the individuals to be covered have been continuously covered for health care benefits:

(1) Under a separate group or individual policy for the six-month period immediately preceding the member's date of death or disability or eligibility for normal or early retirement; or

(2) Pursuant to sections 103.003 to **[**103.175**]** **103.080**, since the effective date of the most recent open enrollment period prior to the member's date of death or disability or eligibility for normal or early retirement; or

(3) From the initial date of eligibility for the benefits provided by sections 103.003 to **[**103.175**]** **103.080**.

Cost for coverage continued pursuant to this section shall be determined by the board. If an eligible person does not elect to continue the coverage within thirty-one days of the first day of the month following the date on which the eligible person ceases to be an employee, he or she may not later elect to be covered pursuant to this section.

143.118. HEALTH CARE SHARING MINISTRY DEDUCTION — RULEMAKING AUTHORITY. — 1. For all taxable years beginning on or after January 1, 2007, an individual taxpayer shall be allowed to subtract from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income an amount equal to the amount which the taxpayer has paid during the taxable year as a member of a health care sharing ministry as defined in section 376.1750, RSMo, and shall only be deductible to the extent that such amounts are not deducted on the taxpayer's federal income tax return for that taxable year.

2. The director of the department of revenue shall promulgate rules and regulations to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

143.119. FEDERAL HEALTH INSURANCE DEDUCTION, STATE TAX CREDIT — RULEMAKING AUTHOIRTY. — 1. A self employed taxpayer, as such term is used in the federal internal revenue code, who is otherwise ineligible for the Federal income tax health insurance deduction under Section 162 of the Federal internal revenue code shall be entitled to a credit against the tax otherwise due under chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in an amount equal to the portion of such taxpayers federal tax liability incurred due to such taxpayers inclusion of such payments in federal adjusted gross income. The tax credits authorized under this section shall be nontransferable. To the extent tax credit issued under this section exceed a taxpayer's state income tax liability, such excess shall be considered an overpayment of tax and shall be refunded to the taxpayer.

2. The director of the department of revenue shall promulgate rules and regulations to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

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

2. There shall be added to the taxpayer's federal adjusted gross income:

(a) The amount of any federal income tax refund received for a prior year which resulted in a Missouri income tax benefit;

(b) Interest on certain governmental obligations excluded from federal gross income by Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on obligations of the state of Missouri or any of its political subdivisions or authorities and shall not apply to the interest described in subdivision (a) of subsection 3 of this section. The amount added pursuant to this paragraph shall be reduced by the amounts applicable to such interest that would have been deductible in computing the taxable income of the taxpayer except only for the application of Section 265 of the Internal Revenue Code. The reduction shall only be made if it is at least five hundred dollars;

(c) The amount of any deduction that is included in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount deducted exceeds the amount that would have been deductible pursuant to Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002; and

(d) The amount of any deduction that is included in the computation of federal taxable income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as amended, other than the deduction allowed by Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as amended, for a net operating loss the taxpayer claims in the tax year in which the net operating loss occurred or carries forward for a period of more than twenty years and carries backward for more than two years. Any amount of net operating loss taken against federal taxable income but disallowed for Missouri income tax purposes pursuant to this paragraph after June 18, 2002, may be carried forward and taken against any income on the Missouri income tax return for a period of not more than twenty years from the year of the initial loss.

3. There shall be subtracted from the taxpayer's federal adjusted gross income the following amounts to the extent included in federal adjusted gross income:

(a) Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent exempt from Missouri income taxes pursuant to the laws of the United States. The amount subtracted pursuant to this paragraph shall be reduced by any interest on indebtedness incurred to carry the described obligations or securities and by any expenses incurred in the production of interest or dividend income described in this paragraph. The reduction in the previous sentence shall only apply to the extent that such expenses including amortizable bond premiums are deducted in determining the taxpayer's federal adjusted gross income or included in the taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses total at least five hundred dollars;

(b) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to one-half of such portion of the gain;

(c) The amount necessary to prevent the taxation pursuant to this chapter of any annuity or other amount of income or gain which was properly included in income or gain and was taxed pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain;

(d) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income;

(e) The amount of any state income tax refund for a prior year which was included in the federal adjusted gross income;

(f) The portion of capital gain specified in section 135.357, RSMo, that would otherwise be included in federal adjusted gross income;

(g) The amount that would have been deducted in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as in effect on January 1, 2002, to the extent that amount relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually deducted pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002;

(h) For all tax years beginning on or after January 1, 2005, the amount of any income received for military service while the taxpayer serves in a combat zone which is included in federal adjusted gross income and not otherwise excluded therefrom. As used in this section, "combat zone" means any area which the President of the United States by Executive Order designates as an area in which armed forces of the United States are or have engaged in combat. Service is performed in a combat zone only if performed on or after the date designated by the President by Executive Order as the date of the commencing of combat activities in such zone, and on or before the date designated by the President by Executive Order as the date of the termination of combatant activities in such zone; and

(i) For all tax years ending on or after July 1, 2002, with respect to qualified property that is sold or otherwise disposed of during a taxable year by a taxpayer and for which an addition modification was made under paragraph (c) of subsection 2 of this section, the amount by which addition modification made under paragraph (c) of subsection 2 of this section on qualified property has not been recovered through the additional subtractions provided in paragraph (g) of this subsection.

4. There shall be added to or subtracted from the taxpayer's federal adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

5. There shall be added to or subtracted from the taxpayer's federal adjusted gross income the modifications provided in section 143.411.

6. In addition to the modifications to a taxpayer's federal adjusted gross income in this section, to calculate Missouri adjusted gross income there shall be subtracted from the taxpayer's federal adjusted gross income any gain recognized pursuant to Section 1033 of the Internal Revenue Code of 1986, as amended, arising from compulsory or involuntary conversion of property as a result of condemnation or the imminence thereof.

7. (1) As used in this subsection, "qualified health insurance premium" means the amount paid during the tax year by such taxpayer for any insurance policy primarily providing health care coverage for the taxpayer, the taxpayer's spouse, or the taxpayer's dependents.

(2) In addition to the subtractions in subsection 3 of this section, one hundred percent of the amount of qualified health insurance premiums shall be subtracted from the

taxpayer's federal adjusted gross income to the extent the amount paid for such premiums is included in federal taxable income. The taxpayer shall provide the department of revenue with proof of the amount of qualified health insurance premiums paid.

143.782. DEFINITIONS. — As used in sections 143.782 to 143.788, unless the context clearly requires otherwise, the following terms shall mean and include:

(1) "Court", the supreme court, court of appeals, or any circuit court of the state;

(2) "Debt", any sum due and legally owed to any state agency which has accrued through contract, subrogation, tort, or operation of law regardless of whether there is an outstanding judgment for that sum, court costs as defined in section 488.010, RSMo, fines and fees owed, or any support obligation which is being enforced by the division of family services on behalf of a person who is receiving support enforcement services pursuant to section 454.425, RSMo**, or any claim for unpaid health care services which is being enforced by the department of health and senior services on behalf of a hospital or healthcare provider under section 143.790**;

(3) "Debtor", any individual, sole proprietorship, partnership, corporation or other legal entity owing a debt;

(4) "Department", the department of revenue of the state of Missouri;

(5) "Refund", the Missouri income tax refund which the department determines to be due any taxpayer pursuant to the provisions of this chapter. The amount of a refund shall not include any senior citizens property tax credit provided by sections 135.010 to 135.035, RSMo, unless such refund is being offset for a delinquency or debt relating to individual income tax or a property tax credit; and

(6) "State agency", any department, division, board, commission, office, or other agency of the state of Missouri, including public community college district.

143.790. UNPAID HEALTH CARE SERVICES TO HOSPITALS OR HEALTH CARE PROVISDERS, CLAIM MAY BE MADE ON DEBTOR'S TAX REFUND — REMAINDER TO BE DEBT OF DEPARTMENT OF HEALTH AND SENIOR SERVICES. — 1. Any hospital or healthcare provider who has provided health care services to an individual who was not covered by a health insurance policy or was not eligible to receive benefits under the state's medical assistance program of needy persons, Title XIX, P.L. 89-97, 1965 amendments to the federal Social Security Act, 42 U.S.C. Section 301, et seq., under chapter 208, RSMo, and the health insurance for uninsured children under sections 208.631 to 208.657, RSMo, at the time such health care services were administered, and such person has failed to pay for such services for a period greater than ninety days, may submit a claim to the director of the department of health and senior services for the unpaid health care services. The director of the department of health and senior services shall review such claim. If the claim appears meritorious on its face, the claim for the unpaid medical services shall constitute a debt of the department of health and senior services for purposes of sections 143.782 to 143.788, and the director may certify the debt to the department of revenue in order to set off the debtor's income tax refund. Once the debt has been certified, the director of the department of health and senior services shall submit the debt to the department of revenue under the set off procedure established under section 143.783.

2. At the time of certification, the director of the department of health and senior services shall supply any information necessary to identify each debtor whose refund is sought to be set off pursuant to section 143.784 and certify the amount of the debt or debts owed by each such debtor.

3. If a debtor identified by the director of the department of health and senior services is determined by the department of revenue to be entitled to a refund, the department of revenue shall notify the department of health and senior services that a refund has been set off on behalf of the department of health and senior services for

purposes of this section and shall certify the amount of such setoff, which shall not exceed the amount of the claimed debt certified. When the refund owed exceeds the claimed debt, the department shall send the excess amount to the debtor within a reasonable time after such excess is determined.

4. The department of revenue shall notify the debtor by certified mail the taxpayer whose refund is sought to be set off that such setoff will be made. The notice shall contain the provisions contained in subsection 3 of section 143.794, including the opportunity for a hearing to contest the setoff provided therein, and shall otherwise substantially comply with the provisions of subsection 3 of section 143.784.

5. Once a debt has been setoff and finally determined under the applicable provisions of sections 143.782 to 143.788, and the department of health and senior services has received the funds transferred from the department of revenue, the department of health and senior services shall settle with each hospital or healthcare provider for the amounts that the department of revenue setoff for such party. At the time of each settlement, each hospital or healthcare provider shall be charged for administration expenses which shall not exceed twenty percent of the collected amount.

6. Lottery prize payouts made under section 313.321, RSMo, shall also be subject to the set off procedures established in this section and any rules and regulations promulgated thereto.

7. The director of the department of revenue shall have priority to offset any delinquent tax owed to the state of Missouri. Any remaining refund shall be offset to pay a state agency debt or to meet a child support obligation that is enforced by the division of family services on behalf of a person who is receiving support enforcement services under section 454.425, RSMo.

8. The director of the department of revenue and the director of the department of health and senior services shall promulgate rules and regulations necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

191.912. PRENATALLY DIAGNOSED CONDITIONS, PATIENT TO BE PROVIDED INFORMATION — DEFINITIONS — CLEARING HOUSE OF INFORMATION TO BE ESTABLISHED. — 1. The general assembly of the state of Missouri hereby finds and declares that pregnant women who choose to undergo prenatal screening should have access to timely and informative counseling about the conditions being tested for, the accuracy of such tests, and resources for obtaining support services for such conditions. Informed consent is a critical component of all genetic testing and prenatal screening, particularly as the results of such testing or screening, and the counseling that follows may lead to the unnecessary abortion of unborn humans with Down Syndrome or other prenatally diagnosed conditions.

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

(1) "Down Syndrome", a chromosomal disorder caused by an error in cell division that results in the presence of an extra whole or partial copy of chromosome 21;

(2) "Health care provider", any person or entity licensed, accredited, or certified by the state of Missouri to perform specified health services;

(3) "Prenatally diagnosed condition", any adverse fetal health condition identified by prenatal genetic testing or indicated by prenatal screening procedures;

(4) "Prenatal test", a diagnostic procedure or screening procedure performed upon a pregnant woman or her unborn offspring to obtain information about her offspring's health or development.

3. When a prenatally diagnosed condition, including but not limited to Down Syndrome, becomes known as a result of one or more prenatal tests, the physician or other health care professional who requested or ordered prenatal tests, or his or her designee, shall provide the patient with current information about the conditions that were tested for, the accuracy of such tests, and resources for obtaining support services for such conditions, including information hotlines specific to Down Syndrome or other prenatally diagnosed conditions, resource centers, and clearinghouses for such conditions, support programs for parents and families, and the alternatives to abortion services program under section 188.325, RSMo.

4. The department of health and senior services shall establish a clearinghouse of information concerning supportive services providers, information hotlines specific to Down Syndrome or other prenatally diagnosed conditions, resource centers, education, other support programs for parents and families, and the alternatives to abortion services program under section 188.325, RSMo.

313.321. STATE LOTTERY FUND, ESTABLISHED — DISTRIBUTION OF FUNDS — IMPREST PRIZE FUND, CREATED, USES — COLLECTION, INVESTMENT, USE OF LOTTERY FUNDS — TAXATION, SET-OFF OF PRIZES, WHEN — RESTRICTIONS FOR LICENSEES. — 1. The money received by the Missouri state lottery commission from the sale of Missouri lottery tickets and from all other sources shall be deposited in the "State Lottery Fund", which is hereby created in the state treasury. At least forty-five percent, in the aggregate, of the money received from the sale of Missouri lottery tickets shall be appropriated to the Missouri state lottery commission and shall be used to fund prizes to lottery players. Amounts in the state lottery fund may be appropriated to the Missouri state lottery commission for administration, advertising, promotion, and retailer compensation. The general assembly shall appropriate remaining moneys not previously allocated from the state lottery fund by transferring such moneys to the general revenue fund. The lottery commission shall make monthly transfers of moneys not previously allocated from the state lottery fund to the general revenue fund as provided by appropriation.

2. The commission may also purchase and hold title to any securities issued by the United States government or its agencies and instrumentalities thereof that mature within the term of the prize for funding multi-year payout prizes.

3. The "Missouri State Lottery Imprest Prize Fund" is hereby created. This fund is to be established by the state treasurer and funded by warrants drawn by the office of administration from the state lottery fund in amounts specified by the commission. The commission may write checks and disburse moneys from this fund for the payment of lottery prizes only and for no other purpose. All expenditures shall be made in accordance with rules and regulations established by the office of administration. Prize payments may also be made from the state lottery fund. Prize payouts made pursuant to this section shall be subject to the provisions of section 143.781, RSMo; and prize payouts made pursuant to this section shall be subject to set off for delinquent child support payments as assessed by a court of competent jurisdiction or pursuant to section 454.410, RSMo. **Prize payouts made under this section shall be subject to set off for unpaid healthcare services provided by hospitals and healthcare providers under the procedure established in section 143.790, RSMo.**

4. Funds of the state lottery commission not currently needed for prize money, administration costs, commissions and promotion costs shall be invested by the state treasurer in interest-bearing investments in accordance with the investment powers of the state treasurer contained in chapter 30, RSMo. All interest earned by funds in the state lottery fund shall accrue to the credit of that fund.

5. No state or local sales tax shall be imposed upon the sale of lottery tickets or shares of the state lottery or on any prize awarded by the state lottery. No state income tax or local earnings tax shall be imposed upon any lottery game prizes which accumulate to an amount of less than six hundred dollars during a prize winner's tax year. The state of Missouri shall withhold for state income tax purposes from a lottery game prize or periodic payment of six hundred dollars or more an amount equal to four percent of the prize.

6. The director of revenue is authorized to enter into agreements with the lottery commission, in conjunction with the various state agencies pursuant to sections 143.782 to 143.788, RSMo, in an effort to satisfy outstanding debts to the state from the lottery winning of any person entitled to receive lottery payments which are subject to federal withholding. **The director of revenue is also authorized to enter into agreements with the lottery commission in conjunction with the department of health and senior services pursuant to section 143.790, RSMo, in an effort to satisfy outstanding debts owed to hospitals and healthcare providers for unpaid healthcare services of any person entitled to receive lottery payments which are subject to federal withholding.**

7. In addition to the restrictions provided in section 313.260, no person, firm, or corporation whose primary source of income is derived from the sale or rental of sexually oriented publications or sexually oriented materials or property shall be licensed as a lottery game retailer and any lottery game retailer license held by any such person, firm, or corporation shall be revoked.

354.536. CONTINUATION OF DEPENDENT CHILD COVERAGE, WHEN — DEPENDENT CHILD DEFINED. — 1. If a health maintenance organization plan provides that coverage of a dependent child terminates upon attainment of the limiting age for dependent children, such coverage shall continue while the child is and continues to be both incapable of self-sustaining employment by reason of mental or physical handicap and chiefly dependent upon the enrollee for support and maintenance. Proof of such incapacity and dependency must be furnished to the health maintenance organization by the enrollee at least thirty-one days after the child's attainment of the limiting age. The health maintenance organization may require at reasonable intervals during the two years following the child's attainment of the limiting age subsequent proof of the child's disability and dependency. After such two-year period, the health maintenance organization may require subsequent proof not more than once each year.

2. If a health maintenance organization plan provides that coverage of a dependent child terminates upon attainment of the limiting age for dependent children, such plan, so long as it remains in force, until the dependent child attains the limiting age, shall remain in force at the option of the enrollee. The enrollee's election for continued coverage under this section shall be furnished to the health maintenance organization within thirty-one days after the child's attainment of the limiting age. As used in this subsection, a dependent child is a person who is:

(1) Unmarried and no more than twenty-five years of age; and

(2) A resident of this state; and

(3) Not provided coverage as a named subscriber, insured, enrollee, or covered person under any group or individual health benefit plan, or entitled to benefits under Title XVIII of the Social Security Act, P.L. 89-97, 42 U.S.C. Section 1395, et seq.

376.392. PRESCRIPTION DRUG FORMULARIES, ENROLLEES TO BE NOTIFIED OF CHANGES TO, WHEN. — For any health carrier or health benefit plan, as defined in section 376.1350, that provides prescription drug coverage or contracts with a third-party for prescription drug services, the health carrier or health benefit plan shall notify enrollees presently taking a prescription drug electronically, or in writing, upon request of the enrollee, at least thirty days prior to any deletions, other than generic substitutions, in the

health carrier's or health benefit plan's prescription drug formulary that affect such enrollees.

376.426. GROUP HEALTH POLICIES, REQUIRED PROVISIONS. — No policy of group health insurance shall be delivered in this state unless it contains in substance the following provisions, or provisions which in the opinion of the director of insurance are more favorable to the persons insured or at least as favorable to the persons insured and more favorable to the policyholder; except that: Provisions in subdivisions (5), (7), (12), (15), and (16) of this section shall not apply to policies insuring debtors; standard provisions required for individual health insurance policies shall not apply to group health insurance policies; and if any provision of this section is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the director, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy:

(1) A provision that the policyholder is entitled to a grace period of thirty-one days for the payment of any premium due except the first, during which grace period the policy shall continue in force, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period;

(2) A provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue, and that no statement made by any person covered under the policy relating to insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two years during such person's lifetime nor unless it is contained in a written instrument signed by the person making such statement; except that, no such provision shall preclude the assertion at any time of defenses based upon the person's ineligibility for coverage under the policy or upon other provisions in the policy;

(3) A provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or, in the event of the death or incapacity of the insured person, to the individual's beneficiary or personal representative;

(4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of the individual's coverage;

(5) A provision specifying the additional exclusions or limitations, if any, applicable under the policy with respect to a disease or physical condition of a person, not otherwise excluded from the person's coverage by name or specific description effective on the date of the person's loss, which existed prior to the effective date of the person's coverage under the policy. Any such exclusion or limitation may only apply to a disease or physical condition for which medical advice or treatment was received by the person during the twelve months prior to the effective date of the person's coverage. In no event shall such exclusion or limitation apply to loss incurred or disability commencing after the earlier of:

(a) The end of a continuous period of twelve months commencing on or after the effective date of the person's coverage during all of which the person has received no medical advice or treatment in connection with such disease or physical condition; or

(b) The end of the two-year period commencing on the effective date of the person's coverage;

(6) If the premiums or benefits vary by age, there shall be a provision specifying an equitable adjustment of premiums or of benefits, or both, to be made in the event the age of the covered person has been misstated, such provision to contain a clear statement of the method of adjustment to be used;

(7) A provision that the insurer shall issue to the policyholder, for delivery to each person insured, a certificate setting forth a statement as to the insurance protection to which that person is entitled, to whom the insurance benefits are payable, and a statement as to any family member's or dependent's coverage;

(8) A provision that written notice of claim must be given to the insurer within twenty days after the occurrence or commencement of any loss covered by the policy. Failure to give notice within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible;

(9) A provision that the insurer shall furnish to the person making claim, or to the policyholder for delivery to such person, such forms as are usually furnished by it for filing proof of loss. If such forms are not furnished before the expiration of fifteen days after the insurer receives notice of any claim under the policy, the person making such claim shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character, and extent of the loss for which claim is made;

(10) A provision that in the case of claim for loss of time for disability, written proof of such loss must be furnished to the insurer within ninety days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of such disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of claim for any other loss, written proof of such loss must be furnished to the insurer within ninety days after the date of such loss. Failure to furnish such proof within such time shall not invalidate nor reduce any claim if it was not reasonably possible to furnish such proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity of the claimant, later than one year from the time proof is otherwise required;

(11) A provision that all benefits payable under the policy other than benefits for loss of time shall be payable not more than thirty days after receipt of proof and that, subject to due proof of loss, all accrued benefits payable under the policy for loss of time shall be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of such period shall be paid as soon as possible after receipt of such proof;

(12) A provision that benefits for accidental loss of life of a person insured shall be payable to the beneficiary designated by the person insured or, if the policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the policy terms. In either case, payment of these benefits is subject to the provisions of the policy in the event no such designated or specified beneficiary is living at the death of the person insured. All other benefits of the policy shall be payable to the person insured. The policy may also provide that if any benefit is payable to the estate of a person, or to a person who is a minor or otherwise not competent to give a valid release, the insurer may pay such benefit, up to an amount not exceeding two thousand dollars, to any relative by blood or connection by marriage of such person who is deemed by the insurer to be equitably entitled thereto;

(13) A provision that the insurer shall have the right and opportunity, at the insurer's own expense, to examine the person of the individual for whom claim is made when and so often as it may reasonably require during the pendency of the claim under the policy and also the right and opportunity, at the insurer's own expense, to make an autopsy in case of death where it is not prohibited by law;

(14) A provision that no action at law or in equity shall be brought to recover on the policy prior to the expiration of sixty days after proof of loss has been filed in accordance with the requirements of the policy and that no such action shall be brought at all unless brought within three years from the expiration of the time within which proof of loss is required by the policy;

(15) A provision specifying the conditions under which the policy may be terminated. Such provision shall state that except for nonpayment of the required premium or the failure to meet continued underwriting standards, the insurer may not terminate the policy prior to the first anniversary date of the effective date of the policy as specified therein, and a notice of any intention to terminate the policy by the insurer must be given to the policyholder at least thirty-one days prior to the effective date of the termination. Any termination by the insurer shall be without prejudice to any expenses originating prior to the effective date of termination. An expense will be considered incurred on the date the medical care or supply is received;

(16) A provision stating that if a policy provides that coverage of a dependent child terminates upon attainment of the limiting age for dependent children specified in the policy, such policy, so long as it remains in force, shall be deemed to provide that attainment of such limiting age does not operate to terminate the hospital and medical coverage of such child while the child is and continues to be both incapable of self-sustaining employment by reason of mental or physical handicap and chiefly dependent upon the **[**policyholder**]** **certificate holder** for support and maintenance. Proof of such incapacity and dependency must be furnished to the insurer by the **[**policyholder**]** **certificate holder** at least thirty-one days **[**before**]** **after** the child's attainment of the limiting age. The insurer may require at reasonable intervals during the two years following the child's attainment of the limiting age subsequent proof of the child's incapacity and dependency. After such two-year period, the insurer may require subsequent proof not more than once each year. This subdivision shall apply only to policies delivered or issued for delivery in this state on or after one hundred twenty days after September 28, 1985;

(17) A provision stating that if a policy provides that coverage of a dependent child terminates upon attainment of the limiting age for dependent children specified in the policy, such policy, so long as it remains in force, until the dependent child attains the limiting age, shall remain in force at the option of the certificate holder. Eligibility for continued coverage shall be established where the dependent child is:

(a) Unmarried and no more than that twenty-five years of age; and

(b) A resident of this state; and

(c) Not provided coverage as a named subscriber, insured, enrollee, or covered person under any group or individual health benefit plan, or entitled to benefits under Title XVIII of the Social Security Act, P.L. 89-97, 42 U.S.C. Section 1395, et seq.

[(17)**]** **(18)** In the case of a policy insuring debtors, a provision that the insurer shall furnish to the policyholder for delivery to each debtor insured under the policy a certificate of insurance describing the coverage and specifying that the benefits payable shall first be applied to reduce or extinguish the indebtedness.

376.450. CITATION OF LAW — DEFINITIONS. — 1. Sections 376.450 to 376.454 shall be known and may be cited as the "Missouri Health Insurance Portability and Accountability Act". Notwithstanding any other provision of law to the contrary, health insurance coverage offered in connection with the small group market, the large group market and the individual market shall comply with the provisions of sections 376.450 to 376.453 and, in the case of the small group market, the provisions of sections 379.930 to 379.952, RSMo. As used in sections 376.450 to 376.453, the following terms mean:

(1) "Affiliation period", a period which, under the terms of the coverage offered by a health maintenance organization, must expire before the coverage becomes effective. The organization is not required to provide health care services or benefits during such period and no premium shall be charged to the participant or beneficiary for any coverage during the period;

(2) "Beneficiary", the same meaning given such term under Section 3(8) of the Employee Retirement Income Security Act of 1974 and Public Law 104-191;

(3) "Bona fide association", an association which:

(a) Has been actively in existence for at least five years;

(b) Has been formed and maintained in good faith for purposes other than obtaining insurance;

(c) Does not condition membership in the association on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee);

(d) Makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to such members (or individuals eligible for coverage through a member); and

(e) Does not make health insurance coverage offered through the association available other than in connection with a member of the association; and

(f) Meets all other requirements for an association set forth in subdivision (5) of subsection 1 of section 376.421 that are not inconsistent with this subdivision;

(4) "COBRA continuation provision":

(a) Section 4980B of the Internal Revenue Code (26 U.S.C. 4980B), as amended, other than subsection (f)(1) of such section as it relates to pediatric vaccines;

(b) Title I, Subtitle B, Part 6, excluding Section 609, of the Employee Retirement Income Security Act of 1974; or

(c) Title XXII of the Public Health Service Act, 42 U.S.C. 300dd, et seq.;

(5) "Creditable coverage", with respect to an individual:

(a) Coverage of the individual under any of the following:

a. A group health plan;

b. Health insurance coverage;

c. Part A or Part B of Title XVIII of the Social Security Act;

d. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under Section 1928 of such act;

e. Chapter 55 of Title 10, United States Code;

f. A medical care program of the Indian Health Service or of a tribal organization;

g. A state health benefits risk pool;

h. A health plan offered under Title 5, Chapter 89, of the United States Code;

i. A public health plan as defined in federal regulations authorized by Section 2701(c)(1)(I) of the Public Health Services Act, as amended by Public Law 104-191;

j. A health benefit plan under Section 5(e) of the Peace Corps Act (22 U.S.C. 2504(3));

(b) Creditable coverage does not include coverage consisting solely of excepted benefits;

(6) "Department", the Missouri department of insurance, financial institutions and professional registration;

(7) "Director", the director of the Missouri department of insurance, financial institutions and professional registration;

(8) "Enrollment date", with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for such enrollment;

(9) "Excepted benefits":

(a) Coverage only for accident (including accidental death and dismemberment) insurance;

(b) Coverage only for disability income insurance;

(c) Coverage issued as a supplement to liability insurance;

(d) Liability insurance, including general liability insurance and automobile liability insurance;

(e) Workers' compensation or similar insurance;

(f) Automobile medical payment insurance;

(g) Credit-only insurance;

(h) Coverage for onsite medical clinics;

(i) Other similar insurance coverage, as approved by the director, under which benefits for medical care are secondary or incidental to other insurance benefits;

(j) If provided under a separate policy, certificate or contract of insurance, any of the following:

a. Limited scope dental or vision benefits;

b. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

c. Other similar limited benefits as specified by the director;

(k) If provided under a separate policy, certificate or contract of insurance, any of the following:

a. Coverage only for a specified disease or illness;

b. Hospital indemnity or other fixed indemnity insurance;

(l) If offered as a separate policy, certificate, or contract of insurance, any of the following:

a. Medicare supplemental coverage (as defined under Section 1882(g)(1) of the Social Security Act);

b. Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;

c. Similar supplemental coverage provided to coverage under a group health plan;

(10) "Group health insurance coverage", health insurance coverage offered in connection with a group health plan;

(11) "Group health plan", an employee welfare benefit plan as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974 and Public Law 104-191 to the extent that the plan provides medical care, as defined in this section, and including any item or service paid for as medical care to an employee or the employee's dependent, as defined under the terms of the plan, directly or through insurance, reimbursement or otherwise, but not including excepted benefits;

(12) "Health insurance coverage", or "health benefit plan" as defined in section 376.1350 and benefits consisting of medical care, including items and services paid for as medical care, that are provided directly, through insurance, reimbursement, or otherwise under a policy, certificate, membership contract, or health services agreement offered by a health insurance issuer, but not including excepted benefits;

(13) "Health insurance issuer", "issuer", or "insurer", an insurance company, health services corporation, fraternal benefit society, health maintenance organization, multiple employer welfare arrangement specifically authorized to operate in the state of Missouri, or any other entity providing a plan of health insurance or health benefits subject to state insurance regulation;

(14) "Individual health insurance coverage", health insurance coverage offered to individuals in the individual market, not including excepted benefits or short-term limited duration insurance;

(15) "Individual market", the market for health insurance coverage offered to individuals other than in connection with a group health plan;

(16) "Large employer", in connection with a group health plan, with respect to a calendar year and a plan year, an employer who employed an average of at least fifty-one employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year;

(17) "Large group market", the health insurance market under which individuals obtain health insurance coverage directly or through any arrangement on behalf of

themselves and their dependents through a group health plan maintained by a large employer;

(18) "Late enrollee", a participant who enrolls in a group health plan other than during the first period in which the individual is eligible to enroll under the plan, or a special enrollment period under subsection 6 of section 376.450;

(19) "Medical care", amounts paid for:

(a) The diagnosis, cure, mitigation, treatment, or prevention of disease or amounts paid for the purpose of affecting any structure or function of the body;

(b) Transportation primarily for and essential to medical care referred to in paragraph (a) of this subdivision; or

(c) Insurance covering medical care referred to in paragraphs (a) and (b) of this subdivision;

(20) "Network plan", health insurance coverage offered by a health insurance issuer under which the financing and delivery of medical care, including items and services paid for as medical care, are provided, in whole or in part, through a defined set of providers under contract with the issuer;

(21) "Participant", the same meaning given such term under Section 3(7) of the Employer Retirement Income Security Act of 1974 and Public Law 104-191;

(22) "Plan sponsor", the same meaning given such term under Section 3(16)(B) of the Employee Retirement Income Security Act of 1974;

(23) "Preexisting condition exclusion", with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date. Genetic information shall not be treated as a preexisting condition in the absence of a diagnosis of the condition related to such information;

(24) "Public Law 104-191", the federal Health Insurance Portability and Accountability Act of 1996;

(25) "Small group market", the health insurance market under which individuals obtain health insurance coverage directly or through an arrangement, on behalf of themselves and their dependents, through a group health plan maintained by a small employer as defined in section 379.930, RSMo;

(26) "Waiting period", with respect to a group health plan and an individual who is a potential participant or beneficiary in a group health plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the group health plan.

2. A health insurance issuer offering group health insurance coverage may, with respect to a participant or beneficiary, impose a preexisting condition exclusion only if:

(1) Such exclusion relates to a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six-month period ending on the enrollment date;

(2) Such exclusion extends for a period of not more than twelve months, or eighteen months in the case of a late enrollee, after the enrollment date; and

(3) The period of any such preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage, if any, applicable to the participant as of the enrollment date.

3. For the purposes of applying subdivision (3) of subsection 2 of this section:

(1) A period of creditable coverage shall not be counted, with respect to enrollment of an individual under group health insurance coverage, if, after such period and before the enrollment date, there was a sixty-three day period during all of which the individual was not covered under any creditable coverage;

(2) Any period of time that an individual is in a waiting period for coverage under group health insurance coverage, or is in an affiliation period, shall not be taken into

account in determining whether a sixty-three day break under subdivision (1) of this subsection has occurred;

(3) Except as provided in subdivision (4) of this subsection, a health insurance issuer offering group health insurance coverage shall count a period of creditable coverage without regard to the specific benefits included in the coverage;

(4) (a) A health insurance issuer offering group health insurance coverage may elect to apply the provisions of subdivision (3) of subsection 2 of this section based on coverage within any category of benefits within each of several classes or categories of benefits specified in regulations implementing Public Law 104-191, rather than as provided under subdivision (3) of this subsection. Such election shall be made on a uniform basis for all participants and beneficiaries. Under such election a health insurance issuer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within the class or category.

(b) In the case of an election with respect to health insurance coverage offered by a health insurance issuer in the small or large group market under this subdivision, the health insurance issuer shall prominently state in any disclosure statements concerning the coverage, and prominently state to each employer at the time of the offer or sale of the coverage, that the issuer has made such election, and include in such statements a description of the effect of this election;

(5) Periods of creditable coverage with respect to an individual may be established through presentation of certifications and other means as specified in Public Law 104-191 and regulations pursuant thereto.

4. A health insurance issuer offering group health insurance coverage shall not apply any preexisting condition exclusion in the following circumstances:

(1) Subject to subdivision (4) of this subsection, a health insurance issuer offering group health insurance coverage shall not impose any preexisting condition exclusion in the case of an individual who, as of the last day of the thirty-one day period beginning with the date of birth, is covered under creditable coverage;

(2) Subject to subdivision (4) of this subsection, a health insurance issuer offering group health insurance coverage shall not impose any preexisting condition exclusion in the case of a child who is adopted or placed for adoption before attaining eighteen years of age and who, as of the last day of the thirty-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of such adoption or placement for adoption;

(3) A health insurance issuer offering group health insurance coverage shall not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition;

(4) Subdivisions (1) and (2) of this subsection shall no longer apply to an individual after the end of the first sixty-three day period during all of which the individual was not covered under any creditable coverage.

5. A health insurance issuer offering group health insurance coverage shall provide a certification of creditable coverage as required by Public Law 104-191 and regulations pursuant thereto.

6. A health insurance issuer offering group health insurance coverage shall provide for special enrollment periods in the following circumstances:

(1) A health insurance issuer offering group health insurance in connection with a group health plan shall permit an employee or a dependent of an employee who is eligible but not enrolled for coverage under the terms of the plan to enroll for coverage if:

(a) The employee or dependent was covered under a group health plan or had health insurance coverage at the time that coverage was previously offered to the employee or dependent;

(b) The employee stated in writing at the time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or health insurance issuer required the statement at the time and provided the employee with notice of the requirement and the consequences of the requirement at the time;

(c) The employee's or dependent's coverage described in paragraph (a) of this subdivision was:

a. Under a COBRA continuation provision and was exhausted; or

b. Not under a COBRA continuation provision and was terminated as a result of loss of eligibility for the coverage or because employer contributions toward the cost of coverage were terminated; and

(d) Under the terms of the group health plan, the employee requests the enrollment not later than thirty days after the date of exhaustion of coverage described in subparagraph a. of paragraph (c) of this subdivision or termination of coverage or employer contributions described in subparagraph b. of paragraph (c) of this subdivision;

(2) (a) A group health plan shall provide for a dependent special enrollment period described in paragraph (b) of this subdivision during which an employee who is eligible but not enrolled and a dependent may be enrolled under the group health plan and, in the case of the birth or adoption of a child, the spouse of the employee may be enrolled as a dependent if the spouse is otherwise eligible for coverage.

(b) A dependent special enrollment period under this subdivision is a period of not less than thirty days that begins on the date of the marriage or adoption or placement for adoption, or the period provided for enrollment in section 376.406 in the case of a birth;

(3) The coverage becomes effective:

(a) In the case of marriage, not later than the first day of the first month beginning after the date on which the completed request for enrollment is received;

(b) In the case of a dependent's birth, as of the date of birth; or

(c) In the case of a dependent's adoption or placement for adoption, the date of the adoption or placement for adoption.

7. In the case of group health insurance coverage offered by a health maintenance organization, the plan may provide for an affiliation period with respect to coverage through the organization only if:

(1) No preexisting condition exclusion is imposed with respect to coverage through the organization;

(2) The period is applied uniformly without regard to any health status-related factors;

(3) Such period does not exceed two months, or three months in the case of a late enrollee;

(4) Such period begins on the enrollment date; and

(5) Such period runs concurrently with any waiting period.

376.451. STANDARDS PROHIBITING DISCRIMINATION. — 1. A health insurance issuer offering group health insurance coverage shall comply with the following standards prohibiting discrimination as to eligibility based upon health status:

(1) A health insurance issuer offering group health insurance coverage shall not establish rules for eligibility, including continued eligibility, of any individual to enroll under the terms of the group health plan based on any of the following health status-related factors of the individual or a dependent of the individual:

(a) Health status;

(b) Medical condition, including both physical and mental illness;

(c) Claims experience;

(d) Receipt of health care;

(e) Medical history;

(f) Genetic information;

(g) Evidence of insurability, including conditions arising out of acts of domestic violence; or

(h) Disability;

(2) This subsection does not require a health insurance issuer offering group health insurance coverage to provide particular benefits other than those provided under the terms of the group health insurance coverage, or prevent the issuer from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the group health insurance coverage;

(3) For purposes of subdivision (1) of this subsection, rules for eligibility to enroll include rules defining any applicable waiting or affiliation period for such enrollment, and rules relating to late and special enrollments.

2. A health insurance issuer offering group health insurance coverage shall comply with the following standards prohibiting discrimination as to premium contributions based upon health status:

(1) A health insurance issuer offering health insurance coverage in connection with a group health plan shall not require any individual, as a condition of enrollment or continued enrollment under the plan, to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual enrolled in the group health plan on the basis of any health status-related factor in relation to the individual or to an individual enrolled under the plan as a dependent of the individual;

(2) Nothing in subdivision (1) of this subsection shall be construed to:

(a) Restrict the amount that any employer may be charged for coverage under a group health plan, other than as provided in sections 379.930 to 379.952, RSMo, for health insurance coverage provided in the small group market; or

(b) Prevent a health insurance issuer offering group health insurance coverage from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention. Premium discount or rebates established under this subsection shall not be included when computing a small group rate band under section 379.936, RSMo.

376.452. LARGE GROUP MARKET, RENEWAL OR CONTINUATION OF COVERAGE REQUIRED — NONRENEWAL OR DISCONTINUATION PERMITTED, WHEN — CONDITIONS FOR DISCONTINUATION. — 1. Except as provided in this section, if a health insurance issuer offers health insurance coverage in the large group market in connection with a group health plan, the health insurance issuer shall renew or continue the coverage in force at the option of the plan sponsor.

2. A health insurance issuer may nonrenew or discontinue health insurance coverage offered in connection with a group health plan in the large group market if:

(1) The plan sponsor has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or if the health insurance issuer has not received timely premium payments;

(2) The plan sponsor has performed an act or practice that constitutes fraud or has made an intentional misrepresentation of material fact under the terms of the coverage;

(3) The plan sponsor has failed to comply with the health insurance issuer's minimum participation requirements;

(4) The plan sponsor has failed to comply with the health insurance issuer's employer contribution requirements;

(5) The health insurance issuer is ceasing to offer coverage in the large group market in accordance with subsection 3 of this section;

(6) In the case of a health insurance issuer that offers health insurance coverage in the large group market through a network plan, there is no longer any enrollee under the

group health plan who lives, resides, or works in the service area of the health insurance issuer or in the area for which the issuer is authorized to do business;

(7) In the case of health insurance coverage that is made available in the large group market only through one or more bona fide associations, the membership of an employer in the bona fide association ceases, but only if coverage is terminated under this subdivision uniformly without regard to any health status-related factor of any covered individual.

3. A health insurance issuer shall not discontinue offering a particular type of group health insurance coverage offered in the large group market unless:

(1) The issuer provides notice to each plan sponsor, participant and beneficiary provided coverage of this type in the large group market of the discontinuation at least ninety days prior to the date of the discontinuation of the coverage;

(2) The issuer offers to each plan sponsor being provided coverage of this type in the large group market the option to purchase any other health insurance coverage currently being offered by the health insurance issuer to a group health plan in the large group market; and

(3) The issuer acts uniformly without regard to the claims experience of those plan sponsors or any health status-related factor of any participant or beneficiary covered or new participant or beneficiary who may become eligible for such coverage.

4. (1) A health insurance issuer shall not discontinue offering all health insurance coverage in the large group market unless:

(a) The issuer provides notice of discontinuation to the director and to each plan sponsor, participant and beneficiary covered at least one hundred eighty days prior to the date of the discontinuation of coverage; and

(b) All health insurance issued or delivered for issuance in Missouri in the large group market is discontinued and coverage under such health insurance is not renewed.

(2) In the case of a discontinuation under this subsection, the health insurance issuer shall not provide for the issuance of any health insurance coverage in the large group market for a period of five years beginning on the date of the discontinuation of the last health insurance coverage not renewed.

5. At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a product offered to a group health plan in the large group market. For purposes of this subsection, renewal shall be deemed to occur not more often than annually on the anniversary of the effective date of the group health plan's health insurance coverage unless a longer term is specified in the policy or contract.

6. In the case of health insurance coverage that is made available by a health insurance issuer only through one or more bona fide associations, a reference to "plan sponsor" in this section is deemed, with respect to coverage provided to an employer member of the association, to include a reference to such employer.

376.453. PREMIUM — ONLY CAFETERIA PLANS REQUIRED, WHEN. — 1. An employer that provides health insurance coverage for which any portion of the premium is payable by the employer shall not provide such coverage unless the employer has established a premium only cafeteria plan as permitted under federal law, 26 U.S.C. Section 125. The provisions of this subsection shall not apply to employers who offer health insurance through any self-insured or self-funded group health benefit plan of any type or description.

2. Nothing in this section shall prohibit or otherwise restrict an employer's ability to either provide a group health benefit plan or create a premium only cafeteria plan with defined contributions and in which the employee purchases the policy.

376.454. INDIVIDUAL MARKET — RENEWAL OR CONTINUATION AT OPTION OF INDIVIDUAL — NONRENEWAL OR DISCONTINUATION PERMITTED, WHEN —

DISCONTINUATION OF A TYPE OF COVERAGE, PROCEDURE. — 1. Except as provided in this section, a health insurance issuer that provides individual health insurance coverage to an individual shall renew or continue in force such coverage at the option of the individual.

2. A health insurance issuer may nonrenew or discontinue health insurance coverage of an individual in the individual market based only on one or more of the following:

(1) The individual has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments;

(2) The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;

(3) The issuer is ceasing to offer coverage in the individual market in accordance with subsection 4 of this section;

(4) In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, the individual no longer resides, lives, or works in the service area or in an area for which the issuer is authorized to do business but only if such coverage is terminated under this subdivision uniformly without regard to any health status-related factor of covered individuals;

(5) In the case of health insurance coverage that is made available in the individual market only through one or more bona fide associations, the membership of the individual in the association on the basis of which the coverage is provided ceases, but only if such coverage is terminated under this subdivision uniformly without regard to any health status-related factor of covered individuals.

3. In any case in which an issuer decides to discontinue offering a particular type of health insurance coverage offered in the individual market, coverage of such type may be discontinued by the issuer only if:

(1) The issuer provides notice to each covered individual provided coverage of this type in such market of such discontinuation at least ninety days prior to the date of the discontinuation of such coverage;

(2) The issuer offers to each individual in the individual market provided coverage of this type, the option to purchase any other individual health insurance coverage currently being offered by the issuer for individuals in such market; and

(3) In exercising the option to discontinue coverage of this type and in offering the option of coverage under subdivision (2) of this subsection, the issuer acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for such coverage.

4. (1) In any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the individual market in the state, health insurance coverage may be discontinued by the issuer only if:

(a) The issuer provides notice to the director and to each individual of such discontinuation at least one hundred eighty days prior to the date of the expiration of such coverage; and

(b) All health insurance issued or delivered for issuance in the state in such market is discontinued and coverage under such health insurance coverage in such market is not renewed.

(2) In the case of a discontinuation under subdivision (1) of this subsection, the issuer shall not provide for the issuance of any health insurance coverage in the individual market for a five-year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

5. At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a policy form offered to individuals in the individual market so long as such modification is consistent with applicable law and effective on a uniform basis among all individuals with that policy form. For purposes of this subsection, renewal shall

be deemed to occur not more often than annually on the anniversary of the effective date of the individual's health insurance coverage or as specified in the policy or contract.

6. In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the individual market to individuals only through one or more associations, a reference to an individual is deemed to include a reference to such an association of which the individual is a member.

7. An insurer shall provide a certification of creditable coverage as required by Public Law 104-191 and regulations pursuant thereto.

376.776. HOSPITAL AND MEDICAL EXPENSE PROVISIONS EXTENDED FOR CERTAIN HANDICAPPED AND DEPENDENT CHILDREN PAST NORMAL COVERAGE AGE. — 1. This section applies to the hospital and medical expense provisions of an accident or sickness insurance policy.

2. If a policy provides that coverage of a dependent child terminates upon attainment of the limiting age for dependent children specified in the policy, such policy so long as it remains in force shall be deemed to provide that attainment of such limiting age does not operate to terminate the hospital and medical coverage of such child while the child is and continues to be both incapable of self-sustaining employment by reason of mental **[**retardation**]** or physical handicap and chiefly dependent upon the policyholder for support and maintenance. Proof of such incapacity and dependency must be furnished to the insurer by the policyholder at least thirty-one days **[**before**]** **after** the child's attainment of the limiting age. The insurer may require at reasonable intervals during the two years following the child's attainment of the limiting age subsequent proof of the child's disability and dependency. After such two-year period, the insurer may require subsequent proof not more than once each year.

3. **If a policy provides that coverage of a dependent child terminates upon attainment of the limiting age for dependent children specified in the policy, such policy, so long as it remains in force until the dependent child attains the limiting age, shall remain in force at the option of the policyholder. The policyholder's election for continued coverage under this section shall be furnished by the policyholder to the insurer within thirty-one days after the child's attainment of the limiting age. As used in this subsection, a dependent child is a person who:**

(1) Is a resident of this state;

(2) Is unmarried and no more than twenty-five years of age; and

(3) Not provided coverage as a named subscriber, insured, enrollee, or covered person under any group or individual health benefit plan, or entitled to benefits under Title XVIII of the Social Security Act, P.L. 89-97, 42 U.S.C. Section 1395, et seq.

4. This section applies only to policies delivered or issued for delivery in this state more than one hundred twenty days after October 13, 1967.

376.960. DEFINITIONS. — As used in sections 376.960 to 376.989, the following terms mean:

(1) "Benefit plan", the coverages to be offered by the pool to eligible persons pursuant to the provisions of section 376.986;

(2) "Board", the board of directors of the pool;

(3) **[**"Director", the director of the Missouri department of insurance**]** **"Church plan", a plan as defined in Section 3(33) of the Employee Retirement Income Security Act of 1974, as amended;**

(4) "Creditable coverage", with respect to an individual:

(a) Coverage of the individual provided under any of the following:

a. A group health plan;

b. Health insurance coverage;

c. Part A or Part B of Title XVIII of the Social Security Act;

d. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under Section 1928;

e. Chapter 55 of Title 10, United States Code;

f. A medical care program of the Indian Health Service or of a tribal organization;

g. A state health benefits risk pool;

h. A health plan offered under Chapter 89 of Title 5, United States Code;

i. A public health plan as defined in federal regulations; or

j. A health benefit plan under Section 5(e) of the Peace Corps Act, 22 U.S.C. 2504(e);

(b) Creditable coverage does not include coverage consisting solely of excepted benefits;

[(4)**]** **(5)** "Department", the Missouri department of insurance**, financial institutions and professional registration**;

(6) "Dependent", a resident spouse or resident unmarried child under the age of nineteen years, a child who is a student under the age of twenty-five years and who is financially dependent upon the parent, or a child of any age who is disabled and dependent upon the parent;

(7) "Director", the director of the Missouri department of insurance, financial institutions and professional registration;

(8) "Excepted benefits":

(a) Coverage only for accident, including accidental death and dismemberment, insurance;

(b) Coverage only for disability income insurance;

(c) Coverage issued as a supplement to liability insurance;

(d) Liability insurance, including general liability insurance and automobile liability insurance;

(e) Workers' compensation or similar insurance;

(f) Automobile medical payment insurance;

(g) Credit-only insurance;

(h) Coverage for onsite medical clinics;

(i) Other similar insurance coverage, as approved by the director, under which benefits for medical care are secondary or incidental to other insurance benefits;

(j) If provided under a separate policy, certificate or contract of insurance, any of the following:

a. Limited scope dental or vision benefits;

b. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

c. Other similar, limited benefits as specified by the director;

(k) If provided under a separate policy, certificate or contract of insurance, any of the following:

a. Coverage only for a specified disease or illness;

b. Hospital indemnity or other fixed indemnity insurance;

(l) If offered as a separate policy, certificate or contract of insurance, any of the following:

a. Medicare supplemental coverage (as defined under Section 1882(g)(1) of the Social Security Act);

b. Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;

c. Similar supplemental coverage provided to coverage under a group health plan;

(9) "Federally defined eligible individual", an individual:

(a) For whom, as of the date on which the individual seeks coverage through the pool, the aggregate of the periods of creditable coverage as defined in this section, is eighteen or more months and whose most recent prior creditable coverage was under a group health

plan, governmental plan, church plan, or health insurance coverage offered in connection with any such plan;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act, or state plan under Title XIX of such act or any successor program, and who does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the period of aggregate creditable coverage was not terminated because of nonpayment of premiums or fraud;

(d) Who, if offered the option of continuation coverage under COBRA continuation provision or under a similar state program, both elected and exhausted the continuation coverage;

(10) "Governmental plan", a plan as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974 and any federal governmental plan;

(11) "Group health plan", an employee welfare benefit plan as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974 and Public Law 104-191 to the extent that the plan provides medical care and including items and services paid for as medical care to employees or their dependents as defined under the terms of the plan directly or through insurance, reimbursement or otherwise, but not including excepted benefits;

[(5)**]** **(12)** "Health insurance", any hospital and medical expense incurred policy, nonprofit health care service for benefits other than through an insurer, nonprofit health care service plan contract, health maintenance organization subscriber contract, preferred provider arrangement or contract, or any other similar contract or agreement for the provisions of health care benefits. The term "health insurance" does not include **[**short-term,**]** accident, fixed indemnity, limited benefit or credit insurance, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance;

[(6)**]** **(13)** "Health maintenance organization", any person which undertakes to provide or arrange for basic and supplemental health care services to enrollees on a prepaid basis, or which meets the requirements of section 1301 of the United States Public Health Service Act;

[(7)**]** **(14)** "Hospital", a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty-four hours in any week of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical condition; or a place devoted primarily to provide medical or nursing care for three or more nonrelated individuals for not less than twenty-four hours in any week. The term "hospital" does not include convalescent, nursing, shelter or boarding homes, as defined in chapter 198, RSMo;

[(8)**]** **(15)** "Insurance arrangement", any plan, program, contract or other arrangement under which one or more employers, unions or other organizations provide to their employees or members, either directly or indirectly through a trust or third party administration, health care services or benefits other than through an insurer;

[(9)**]** **(16)** "Insured", any individual resident of this state who is eligible to receive benefits from any insurer or insurance arrangement, as defined in this section;

[(10)**]** **(17)** "Insurer", any insurance company authorized to transact health insurance business in this state, any nonprofit health care service plan act, or any health maintenance organization;

(18) "Medical care", amounts paid for:

(a) The diagnosis, care, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body;

(b) Transportation primarily for and essential to medical care referred to in paragraph (a) of this subdivision; and

(c) Insurance covering medical care referred to in paragraphs (a) and (b) of this subdivision;

[(11)**] (19)** "Medicare", coverage under both part A and part B of Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq., as amended;

[(12)**] (20)** "Member", all insurers and insurance arrangements participating in the pool;

[(13)**] (21)** "Physician", physicians and surgeons licensed under chapter 334, RSMo, or by state board of healing arts in the state of Missouri;

[(14)**] (22)** "Plan of operation", the plan of operation of the pool, including articles, bylaws and operating rules, adopted by the board pursuant to the provisions of sections 376.961, 376.962 and 376.964;

[(15)**] (23)** "Pool", the state health insurance pool created in sections 376.961, 376.962 and 376.964**;**

(24) "Resident", an individual who has been legally domiciled in this state for a period of at least thirty days, except that for a federally defined eligible individual, there shall not be a thirty-day requirement;

(25) "Significant break in coverage", a period of sixty-three consecutive days during all of which the individual does not have any creditable coverage, except that neither a waiting period nor an affiliation period is taken into account in determining a significant break in coverage;

(26) "Trade act eligible individual", an individual who is eligible for the federal health coverage tax credit under the Trade Act of 2002, Public Law 107-210.

376.961. MISSOURI HEALTH INSURANCE POOL CREATED — MEMBERS TO BE ALL HEALTH INSURERS IN STATE — BOARD OF DIRECTORS, MEMBERS, TERMS, QUALIFICATIONS. — 1. There is hereby created a nonprofit entity to be known as the "Missouri Health Insurance Pool". All insurers issuing health insurance in this state and insurance arrangements providing health plan benefits in this state shall be members of the pool.

2. Beginning January 1, 2007, the board of directors shall consist of the director of the department of insurance**, financial institutions and professional registration** or the director's designee, and eight members appointed by the director. Of the initial eight members appointed, three shall serve a three-year term, three shall serve a two-year term, and two shall serve a one-year term. All subsequent appointments to the board shall be for three-year terms. Members of the board shall have a background and experience in health insurance plans or health maintenance organization plans, in health care finance, or as a health care provider or a member of the general public; except that, the director shall not be required to appoint members from each of the categories listed. The director may reappoint members of the board. The director shall fill vacancies on the board in the same manner as appointments are made at the expiration of a member's term **and may remove any member of the board for neglect of duty, misfeasance, malfeasance, or nonfeasance in office.**

3. Beginning August 28, 2007, the board of directors shall consist of fourteen members. The board shall consist of the director and the eight members described in subsection 2 of this section and shall consist of the following additional five members:

(1) One member from a hospital located in Missouri, appointed by the governor, with the advice and consent of the senate;

(2) Two members of the senate, with one member from the majority party appointed by the president pro tem of the senate and one member of the minority party appointed by the president pro tem of the senate with the concurrence of the minority floor leader of the senate; and

(3) Two members of the house of representatives, with one member from the majority party appointed by the speaker of the house of representatives and one member of the minority party appointed by the speaker of the house of representatives with the concurrence of the minority floor leader of the house of representatives.

4. The members appointed under subsection 3 of this section shall serve in an ex officio capacity. The terms of the members of the board of directors appointed under subsection 3 of this section shall expire on December 31, 2009. On such date, the membership of the board shall revert back to nine members as provided for in subsection 2 of this section.

376.964. BOARD, POWERS AND DUTIES — INCLUDING PROVIDING FOR ISSUING POLICIES AND REINSURING RISKS — STAFF APPOINTMENT — RULEMAKING AUTHORITY. — The board of directors and administering insurers of the pool shall have the general powers and authority granted under the laws of this state to insurance companies licensed to transact health insurance as defined in section 376.960, and, in addition thereto, the specific authority to:

(1) Enter into contracts as are necessary or proper to carry out the provisions and purposes of sections 376.960 to 376.989, including the authority, with the approval of the director **[**of insurance**]**, to enter into contracts with similar pools of other states for the joint performance of common administrative functions, or with persons or other organizations for the performance of administrative functions;

(2) Sue or be sued, including taking any legal actions necessary or proper for recovery of any assessments for, on behalf of, or against pool members;

(3) Take such legal actions as necessary to avoid the payment of improper claims against the pool or the coverage provided by or through the pool;

(4) Establish appropriate rates, rate schedules, rate adjustments, expense allowances, agents' referral fees, claim reserve formulas and any other actuarial function appropriate to the operation of the pool. Rates shall not be unreasonable in relation to the coverage provided, the risk experience and expenses of providing the coverage. Rates and rate schedules may be adjusted for appropriate risk factors such as age and area variation in claim costs and shall take into consideration appropriate risk factors in accordance with established actuarial and underwriting practices;

(5) Assess members of the pool in accordance with the provisions of this section, and to make advance interim assessments as may be reasonable and necessary for the organizational and interim operating expenses. Any such interim assessments are to be credited as offsets against any regular assessments due following the close of the fiscal year;

(6) Issue policies of insurance in accordance with the requirements of sections 376.960 to 376.989;

(7) Appoint, from among members, appropriate legal, actuarial and other committees as necessary to provide technical assistance in the operation of the pool, policy or other contract design, and any other function within the authority of the pool;

(8) Establish rules, conditions and procedures for reinsuring risks of pool members desiring to issue pool plan coverages in their own name. Such reinsurance facility shall not subject the pool to any of the capital or surplus requirements, if any, otherwise applicable to reinsurers;

(9) Negotiate rates of reimbursement with health care providers on behalf of the association and its members**;**

(10) Administer separate accounts to separate federally defined eligible individuals and trade act eligible individuals who qualify for plan coverage from the other eligible individuals entitled to pool coverage and apportion the costs of administration among such separate accounts.

376.966. NO EMPLOYEE TO LOSE COVERAGE BY ENROLLING IN POOL — ELIGIBILITY FOR POOL COVERAGE, INELIGIBLITY — MEDICAL UNDERWRITING CONSIDERATIONS, NOTIFICATION REQUIRED, WHEN. — 1. No employee shall involuntarily lose his **or her** group coverage by decision of his **or her** employer on the grounds that such employee may subsequently enroll in the pool. The department **[**of insurance**]** shall have authority to promulgate rules and regulations to enforce this subsection.

2. [Any individual who is a resident of this state shall be eligible for pool coverage, except the following] **The following individual persons shall be eligible for coverage under the pool if they are and continue to be residents of this state:**

(1) An individual person who provides evidence of the following:

(a) A notice of rejection or refusal to issue substantially similar health insurance for health reasons by at least two insurers; or

(b) A refusal by an insurer to issue health insurance except at a rate exceeding the plan rate for substantially similar health insurance;

(2) A federally defined eligible individual who has not experienced a significant break in coverage;

(3) A trade act eligible individual;

(4) Each resident dependent of a person who is eligible for plan coverage;

(5) Any person, regardless of age, that can be claimed as a dependent of a trade act eligible individual on such trade act eligible individual's tax filing;

(6) Any person whose health insurance coverage is involuntarily terminated for any reason other than nonpayment of premium or fraud, and who is not otherwise ineligible under subdivision (4) of subsection 3 of this section. If application for pool coverage is made not later than sixty-three days after the involuntary termination, the effective date of the coverage shall be the date of termination of the previous coverage;

(7) Any person whose premiums for health insurance coverage have increased above the rate established by the board under paragraph (a) of subdivision (1) of subsection 3 of this section;

(8) Any person currently insured who would have qualified as a federally defined eligible individual or a trade act eligible individual between the effective date of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the effective date of this act.

3. The following individual persons shall not be eligible for coverage under the pool:

(1) Persons who have, on the date of issue of coverage by the pool, **or obtain** coverage under health insurance or an insurance arrangement **substantially similar to or more comprehensive than a plan policy, or would be eligible to have coverage if the person elected to obtain it,** except that**:**

(a) This exclusion shall not apply to a person who has such coverage but whose premiums have increased to [three] **one** hundred **fifty** percent [or more] **to two hundred percent** of rates established by the board as applicable for individual standard risks**. After December 31, 2009, this exclusion shall not apply to a person who has such coverage but whose premiums have increased to three hundred percent or more of rates established by the board as applicable for individual standard risks**;

(b) A person may maintain other coverage for the period of time the person is satisfying any preexisting condition waiting period under a pool policy; and

(c) A person may maintain plan coverage for the period of time the person is satisfying a preexisting condition waiting period under another health insurance policy intended to replace the pool policy;

(2) Any person who is at the time of pool application receiving health care benefits under section 208.151, RSMo;

(3) Any person having terminated coverage in the pool unless twelve months have elapsed since such termination**, unless such person is a federally defined eligible individual**;

(4) Any person on whose behalf the pool has paid out one million dollars in benefits;

(5) Inmates **or residents** of public institutions**, unless such person is a federally defined eligible individual,** and persons eligible for public programs;

(6) Any person whose medical condition which precludes other insurance coverage is directly due to alcohol or drug abuse or self-inflicted injury**, unless such person is a federally defined eligible individual or a trade act eligible individual**;

(7) [Any person who is eligible for continuation or conversion of insurance coverage under 29 U.S.C. 1161 to 29 U.S.C. 1168, 42 U.S.C. 300bb-1 to 42 U.S.C. 300bb-8, sections 376.395 to 376.404, or section 376.428, except that this exclusion shall not apply to a person who has such coverage but whose premiums have increased to three hundred percent or more of rates established by the board as applicable for individual standard risks; or

(8)] Any person who is eligible for Medicare coverage.

[3.] **4.** Any person who ceases to meet the eligibility requirements of this section may be terminated at the end of [his] **such person's** policy period.

[4. Any person whose health insurance coverage is involuntarily terminated for any reason other than nonpayment of premium or any person whose premiums have increased to three hundred percent or more of rates established by the board as applicable for individual standard risks, may apply for coverage under the plan. If such coverage is applied for within sixty days after the involuntary termination and the application is approved and if premiums are paid for the entire coverage period, the effective date of the coverage shall be the date of termination of the previous coverage.]

5. If an insurer issues one or more of the following or takes any other action based wholly or partially on medical underwriting considerations which is likely to render any person eligible for pool coverage, the insurer shall notify all persons affected of the existence of the pool, as well as the eligibility requirements and methods of applying for pool coverage:

(1) A notice of rejection or cancellation of coverage;

(2) A notice of reduction or limitation of coverage, including restrictive riders, if the effect of the reduction or limitation is to substantially reduce coverage compared to the coverage available to a person considered a standard risk for the type of coverage provided by the plan.

376.986. POOL TO OFFER MEDICAL COVERAGE — PREMIUMS, HOW ESTABLISHED — STANDARD RISK RATE, HOW CALCULATED — DIRECTOR TO APPROVE RATES — EXCLUSIONS — BENEFITS REDUCED BY OTHER INSURANCE OR WORKERS' COMPENSATION — MEDICAL EXPENSE TO INCLUDE PRAYER FOR SPIRITUAL HEALING. — 1. The pool shall offer major medical expense coverage to every person eligible for coverage under section 376.966. The coverage to be issued by the pool and its schedule of benefits, exclusions and other limitations, shall be established by the board with the advice and recommendations of the pool members, and such plan of pool coverage shall be submitted to the director for approval. The pool shall also offer coverage for drugs and supplies requiring a medical prescription and coverage for patient education services, to be provided at the direction of a physician, encompassing the provision of information, therapy, programs, or other services on an inpatient or outpatient basis, designed to restrict, control, or otherwise cause remission of the covered condition, illness or defect.

2. In establishing the pool coverage the board shall take into consideration the levels of health insurance provided in this state and medical economic factors as may be deemed appropriate, and shall promulgate benefit levels, deductibles, coinsurance factors, exclusions and limitations determined to be generally reflective of and commensurate with health insurance provided through a representative number of insurers in this state.

3. [Premiums charged for pool coverage may not be unreasonable in relation to the benefits provided, the risk experience and the reasonable expenses of providing the coverage.] **The pool shall establish premium rates for pool coverage as provided in subsection 4 of this section.** Separate schedules of premium rates based on age, sex and geographical location may apply for individual risks. **Premium rates and schedules shall be submitted to the director for approval prior to use.**

4. The pool**, with the assistance of the director,** shall determine the standard risk rate by [calculating the average individual standard rate charged by the five insurers with the largest number of individual contracts in force. In the event five insurers do not offer comparable

coverage,**]** **considering the premium rates charged by other insurers offering health insurance coverage to individuals.** The standard risk rate shall be established using reasonable actuarial techniques and shall reflect anticipated experience and expenses for such coverage. Initial rates for pool coverage shall not be less than one hundred **[**fifty**]** **twenty-five** percent of rates established as applicable for individual standard risks. **Subject to the limits provided in this subsection,** subsequent rates shall be established to provide fully for the expected costs of claims including recovery of prior losses, expenses of operation, investment income of claim reserves, and any other cost factors subject to the limitations described herein. In no event shall pool rates exceed **[**two hundred percent of rates applicable to individual standard risks. All rates and rate schedules shall be submitted to the director for approval**]** **the following:**

(1) For federally defined eligible individuals and trade act eligible individuals, rates shall be equal to the percent of rates applicable to individual standard risks actuarially determined to be sufficient to recover the sum of the cost of benefits paid under the pool for federally defined and trade act eligible individuals plus the proportion of the pool's administrative expense applicable to federally defined and trade act eligible individuals enrolled for pool coverage, provided that such rates shall not exceed one hundred fifty percent of rates applicable to individual standard risks; and

(2) For all other individuals covered under the pool, one hundred fifty percent of rates applicable to individual standard risks.

5. Pool coverage established pursuant to this section shall provide an appropriate high and low deductible to be selected by the pool applicant. The deductibles and coinsurance factors may be adjusted annually in accordance with the medical component of the consumer price index.

6. Pool coverage shall exclude charges or expenses incurred during the first twelve months following the effective date of coverage as to any condition **[**which, during the six-month period immediately preceding the effective date of coverage, had manifested itself in such a manner as would cause an ordinarily prudent person to seek diagnosis, care or treatment or**]** for which medical advice, care or treatment was recommended or received as to such condition **during the six-month period immediately preceding the effective date of coverage**. Such preexisting condition exclusions shall be waived to the extent to which similar exclusions, if any, have been satisfied under any prior health insurance coverage which was involuntarily terminated, if **[**that**]** application for pool coverage is made not later than **[**sixty**]** **sixty-three** days following such involuntary termination and, in such case, coverage in the pool shall be effective from the date on which such prior coverage was terminated.

7. **No preexisting condition exclusion shall be applied to the following:**

(1) A federally defined eligible individual who has not experienced a significant gap in coverage; or

(2) A trade act eligible individual who maintained creditable health insurance coverage for an aggregate period of three months prior to loss of employment and who has not experienced a significant gap in coverage since that time.

8. Benefits otherwise payable under pool coverage shall be reduced by all amounts paid or payable through any other health insurance, or insurance arrangement, and by all hospital and medical expense benefits paid or payable under any workers' compensation coverage, automobile medical payment or liability insurance whether provided on the basis of fault or nonfault, and by any hospital or medical benefits paid or payable under or provided pursuant to any state or federal law or program except Medicaid. The insurer or the pool shall have a cause of action against an eligible person for the recovery of the amount of benefits paid which are not for covered expenses. Benefits due from the pool may be reduced or refused as a setoff against any amount recoverable under this subsection.

[8.**]** **9.** Medical expenses shall include expenses for comparable benefits for those who rely solely on spiritual means through prayer for healing.

376.987. HIGH DEDUCTIBLE HEALTH PLANS AND ESTABLISHMENT OF HEALTH SAVINGS PLANS TO BE OFFERED AS OPTIONS — DEFINITIONS — RYLEMAKING AUTHORITY. — 1. The board shall offer to all eligible persons for pool coverage under section 376.966 the option of receiving health insurance coverage through a high deductible health plan and the establishment of a health savings account. In order for a qualified individual to obtain a high deductible health plan through the pool, such individual shall present evidence, in a manner prescribed by regulation, to the board that he or she has established a health savings account in compliance with 26 U.S.C. Section 223, and any amendments and regulations promulgated thereto.

2. As used in this section, the term "health savings account" shall have the same meaning ascribed to it as in 26 U.S.C. Section 223(d), as amended. The term "high deductible health plan" shall mean a policy or contract of health insurance or health care plan that meets the criteria established in 26 U.S.C. Section 223(c)(2), as amended, and any regulations promulgated thereunder.

3. The board is authorized to promulgate rules and regulations for the administration and 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, 2007, shall be invalid and void.

376.989. NO LIABILITY, CRIMINAL OR CIVIL, FOR PARTICIPATION IN POOL BY MEMBERS. — Neither the participation in the pool as members, the establishment of rates, forms or procedures, nor any other joint or collective action required or permitted by the provisions of sections 376.960 to 376.989 shall be the basis of any legal action, criminal or civil liability or penalty against the pool**, the pool administrator, the board or any of its members, or pool employees, contractors, or consultants,** or any of its members.

376.990. STUDY TO BE CONDUCTED ON FINANCING OF THE STATE HEALTH INSURANCE POOL, CONTENTS, REPORT. — The board of directors of the state health insurance pool is hereby directed to conduct a study regarding the financing of the state health insurance pool. Such study shall include, but not be limited to, research and findings of how other states finance their state high risk pools. The study shall consider alternative assessment approaches to the current assessment method employed in section 376.975. In addition to studying alternative financing mechanisms employed by other state high risk pools, the board shall explore the ramifications of eliminating or reducing a carrier's ability to offset their assessments against their premium tax liability. The polestar of the study shall be establishing a stable funding source for the Missouri state health insurance pool while providing adequate health insurance coverage to Missouri's uninsurable population. The board of directors of the state health insurance pool shall submit a report of its findings and recommendations to each member of the general assembly no later than January 1, 2008.

376.1500. DEFINITIONS. — As used sections 376.1500 to 376.1532, the following words or phrases mean:

(1) "Director", the director of the department of insurance, financial and professional regulation;

(2) "Discount card", a card or any other purchasing mechanism or device, which is not insurance, that purports to offer discounts or access to discounts in health-related purchases from health care providers;

(3) "Discount medical plan", a business arrangement or contract in which a person, in exchange for fees, dues, charges, or other consideration, provides access for plan members to providers of medical services and the right to receive medical services from those providers at a discount. The term does not include any product regulated as an insurance product, group health service product or membership in a health maintenance organization in this state or discounts provided by an insurer, group health service, or health maintenance organizations where those discounts are provided at no cost to the insured or member and are offered due to coverage with a licensed insurer, group health service, or health maintenance organization. The term does not include an arrangement where the discounts or prices are sold, rented, or otherwise provided to another licensed carrier, self-insured or self-funded employer sponsored plan, Taft-Hartley trust, or licensed third party administrator;

(4) "Discount medical plan organization", a person or an entity that operates a discount medical plan;

(5) "Health care provider", any person or entity licensed by this state to provide health care services including, but not limited to physicians, hospitals, home health agencies, pharmacies, and dentists;

(6) "Health care provider network", an entity which directly contracts with physicians and hospitals and has contractual rights to negotiate on behalf of those health care providers with a discount medical plan organization to provide medical services to members of the discount medical plan organization;

(7) "Marketer", a person or entity who markets, promotes, sells or distributes a discount medical plan, including a private label entity that places its name on and markets or distributes a discount medical plan but does not operate a discount medical plan;

(8) "Medical services", any care, service or treatment of illness or dysfunction of, or injury to, the human body including, but not limited to, physician care, inpatient care, hospital surgical services, emergency services, ambulance services, dental care services, vision care services, mental health services, substance abuse services, chiropractic services, podiatric care services, laboratory services, and medical equipment and supplies. The term does not include pharmaceutical supplies or prescriptions;

(9) "Member", any person who pays fees, dues, charges, or other consideration for the right to receive the purported benefits of a discount medical plan; and

(10) "Person", an individual, corporation, business trust, estate, trust, partnership, association, joint venture, limited liability company, or any other government or commercial entity.

376.1502. REQUIREMENTS FOR TRANSACTION OF BUSINESS. — 1. It is unlawful to transact business in this state as a discount medical plan organization, unless the organization is a corporation, limited liability corporation, partnership, limited liability partnership or other legal entity organized under the laws of this state or, if a foreign entity, authorized to transact business in this state, and is registered as a discount medical plan organization with the director or duly authorized by the director as an insurance company, licensed health maintenance organization, licensed group health service organization, or third party administrator.

2. An individual person, employee, or agent of a registered entity described in subsection 1 of this section may also transact business in this state on behalf of such entity.

376.1504. REGISTRATION REQUIREMENTS — TERM OF REGISTRATION — RENEWAL. — 1. To register as a discount medical plan organization, an applicant shall:

(1) File with the director an application on a form approved and adopted by the director; and

(2) Pay to the director an application fee of two hundred fifty dollars.

2. A registration is valid for a one-year term and expires one year following the registration date unless it is renewed as provided in this section.

3. Before it expires, a registrant may renew the registration for an additional one-year term if the registrant:

(1) Otherwise is qualified to receive a registration;

(2) Files with the director a renewal application on a form approved and adopted by the director; and

(3) Pays a renewal fee of two hundred fifty dollars.

4. All amounts collected as registration or renewal fees shall be deposited into the insurance dedicated fund.

5. Nothing in this subsection shall require a provider who provides discounts to his or her own patients to obtain and maintain a registration as a discount medical plan organization.

376.1506. VIOLATIONS, PENALTY. — 1. If the director has a reason to believe that the discount medical plan organization is not complying with the requirements of sections 376.1500 to 376.1532, the director may examine or investigate the business and affairs of any discount medical plan organization under the authority of sections 374.190 and 374.202 to 374.207, RSMo. The director may require any discount medical plan organization or applicant to produce any records, books, files, advertising and solicitation materials, or other information and may take statements under oath to determine whether the discount medical plan organization or applicant is in violation of the law. Reasonable expenses incurred in conducting any examination shall be paid by the discount medical plan organization under sections 374.202 to 374.207, RSMo.

2. Failure by the discount medical plan organization to pay the expenses incurred under this subsection shall be grounds for denial or revocation of the discount medical plan organization's registration.

376.1508. PROCESSING FEE — CANCELLATION OF MEMBERSHIP, EFFECT OF. — 1. A discount medical plan organization may charge a reasonable one-time processing fee and a periodic charge as long as the fee is disclosed to the applicant.

2. If the member cancels the membership within the first thirty days after receipt of the discount card and other membership materials, the member shall receive a reimbursement of all periodic charges paid. The return of all periodic charges shall be made within thirty days of the date of the cancellation. If all of the periodic charges have not been paid within thirty days, interest shall be assessed and paid on the proceeds at a rate of the treasury bill rate of the preceding calendar year, plus two percentage points.

3. The right of cancellation shall be set out in the written membership materials on the first page, in ten-point type or larger.

4. If a discount medical plan organization cancels a membership for any reason other than nonpayment of charges by the member, the discount medical plan organization shall make a pro rata reimbursement of all periodic charges to the member.

376.1510. PROHIBITED ACTS. — A discount medical plan organization shall not:

(1) Use in its advertisements, marketing material, brochures, and discount cards the terms "health plan", "coverage", "copay", "copayments", "preexisting conditions", "guaranteed issue", "premium", "PPO", "preferred provider organization", or other terms in a manner that could reasonably mislead a person to believe that the discount medical plan is health insurance;

(2) Except for hospital services, have restrictions on free access to plan providers including waiting periods and notification periods;

(3) Pay providers any fees for medical services;

(4) Collect or accept money from a member for payment to a provider for specific medical services furnished or to be furnished to the member, unless the organization is licensed by the director to act as an administrator;

(5) Except as otherwise provided in sections 376.1500 to 376.1532, as a disclaimer of any relationship between discount medical plan benefits and insurance, or as a description of an insurance product connected with a discount medical plan, use in its advertisements, marketing material, brochures, and discount cards the term "insurance".

376.1512. REQUIRED DISCLOSURES. — 1. The following disclosures, to be printed in bold and in not less than twelve-point type, shall be made in writing to any prospective member and shall appear on the first page of any advertisements, marketing materials or brochures relating to a discount medical plan:

(1) The plan is not insurance;

(2) The plan provides discounts with certain health care providers for medical services;

(3) The plan does not make payments directly to the providers of medical services;

(4) The plan member is obligated to pay for all health care services but will receive a discount from those health care providers who have contracted with the discount plan organization; and

(5) The name and the location of the registered discount medical plan organization, including the current telephone number of the registered discount medical plan organization or other entity responsible for customer service for the plan, if different from the registered discount medical plan organization.

2. If the discount medical plan is sold, marketed, or solicited by telephone, the disclosures required by this section shall be made orally and provided in the initial written materials that describe the benefits under the discount medical plan provided to the prospective or new member.

3. Each discount card or any other plan identifier issued to a plan member shall state in bold and prominent type on the front face of the card that "THIS IS NOT INSURANCE".

376.1514. WRITTEN AGREEMENT REQUIRED, CONTENTS. — 1. All providers offering medical services to members under a discount medical plan shall provide such services pursuant to a written agreement. The agreement may be entered into directly by the health care provider or by a health care provider network to which the provider belongs if the provider network has contracts with the health care provider that allow the provider network to contract on behalf of the health care provider.

2. A health care provider agreement shall provide the following:

(1) A description of the services and products to be provided at a discount;

(2) The amount or amounts of the discounts or, alternatively, a fee schedule which reflects the health care provider's discounted rates; and

(3) A provision that the health care provider will not charge members more than the discounted rates.

3. A health care provider agreement with a health care provider network shall require that the health care provider network have written agreements with its health care providers that:

(1) Contain the terms described in this subsection;

(2) Authorize the health care provider network to contract with the discount medical plan organization on behalf of the provider; and

(3) Require the network to maintain an up-to-date list of its contracted health care providers and to provide that list on a quarterly basis to the discount medical plan organization.

4. A health care provider agreement between a discount medical plan organization and an entity that contracts with a health care provider network shall require that the entity, in its contract with the health care provider network, require the health care provider network to have written agreements with its providers that comply with subsection 3 of this section.

5. The discount medical plan organization shall maintain a copy of each active health care provider agreement into which it has entered.

376.1516. WRITTEN MEMBERSHIP MATERIALS, REQUIRED CONTENTS — FORMS TO BE FILED WITH DIRECTOR, FEE. — 1. Each benefit under the discount medical plan and every disclosure required under sections 376.1500 to 376.1532, shall be included in the written membership materials between the discount medical plan organization and the member. The written membership materials shall also include a statement notifying the members of their right to cancel under section 376.1508, and such materials shall also list all of the disclosures required by section 376.1512.

2. All forms used, including written membership materials, shall be filed with the director prior to any sale, marketing or advertising of the discount medical plan in this state. Every form filed shall be identified by a unique form number placed in the lower left corner of each form. A filing fee of twenty-five dollars per form shall be payable to the director for deposit into the insurance dedicated fund.

376.1518. NET WORTH TO BE MAINTAINED, AMOUNT. — 1. Each discount medical plan organization registered pursuant to sections 376.1500 to 376.1532, shall at all times maintain a net worth of at least one hundred fifty thousand dollars.

2. The director may not allow a registration unless the discount medical plan organization has a net worth of at least one hundred fifty thousand dollars.

376.1520. NOTICE OF CHANGES. — Each discount medical plan organization required to be registered pursuant to this section shall provide the director at least thirty days' advance notice of any change in the discount medical plan organization's name, address, principal business address, or mailing address.

376.1522. LIST OF PROVIDERS TO BE MAINTAINED ON WEB SITE. — Each discount medical plan organization shall maintain a current list of the names and addresses of the providers with which it has contracted on a web site page, the address of which shall be prominently displayed on all its advertisements, marketing materials, brochures, and discount cards. This section applies to those providers with whom the discount medical plan organization has contracted directly, as well as those who are members of a provider network with which the discount medical plan organization has contracted.

376.1524. ADVERTISING AND MARKETING MATERIALS, APPROVAL IN WRITING REQUIRED. — 1. All advertisements, marketing materials, brochures and discount cards used by marketers shall be approved in writing for such use by the discount medical plan organization.

2. The discount medical plan organization shall have an executed written agreement with a marketer prior to the marketer's marketing, promoting, selling, or distributing the discount medical plan.

376.1528. RULEMAKING AUTHORITY. — The director under the provisions of section 374.045, RSMo, may promulgate rules to administer and interpret the provisions of sections 376.1500 to 376.1532.

376.1530. DENIAL AND REFUSAL TO ISSUE REGISTRATIONS, WHEN. — 1. The director may deny a registration to an applicant or refuse to renew, suspend, or revoke the registration of a registrant if the applicant or registrant, or an officer, director, or employee of the applicant or registrant:

(1) Makes a material misstatement or misrepresentation in an application for registration;

(2) Fraudulently or deceptively obtains or attempts to obtain a registration for the applicant or registrant or for another;

(3) Has advertised, merchandised or attempted to merchandise its services in such a manner as to misrepresent its services or capacity for service or has engaged in deceptive, misleading or unfair practices with respect to advertising or merchandising;

(4) In connection with the advertisement, offer, sale or administration of a health care discount program, makes any untrue statement of material fact, conceals any material fact, uses any deception or commits fraud or engages in any dishonest activity;

(5) Is not fulfilling its obligations as a discount medical plan organization;

(6) Does not have the minimum net worth as required by sections 376.1500 to 376.1532; or

(7) Violates any provision of sections 376.1500 to 376.1532, or any law or regulation of this state relating to insurance or the provision of medical care.

2. If the director has cause to believe that grounds for the suspension or revocation of a registration exist, the director shall notify the discount medical plan organization in writing, specifically stating the grounds for suspension or revocation, and shall provide opportunity for a hearing on the matter before the director.

3. When the registration of a discount medical plan organization is surrendered or revoked, such organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs transacted under the registration. The organization may not engage in any further advertising, solicitation, collecting of fees, or renewal of contracts.

376.1532. VIOLATIONS, PENALTIES. — 1. If the director determines that a person has engaged, is engaging, or has taken a substantial step toward engaging in a violation of sections 376.1500 to 376.1532, or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of sections 376.1500 to 376.1532 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of sections 376.1500 to 376.1532 is a level two violation under section 374.049, RSMo. The director of insurance may also suspend or revoke the license or certificate of authority of such person for any willful violation.

2. If the director believes that a person has engaged, is engaging, or has taken a substantial step toward engaging in a violation of sections 376.1500 to 376.1532 or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission or course of business constituting a violation of sections 376.1500 to 376.1532 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of sections 376.1500 to 376.1532 is a level two violation under section 374.049, RSMo.

376.1750. HEALTH CARE SHARING MINISTRY, PROVISIONS NOT TO APPLY TO — MINISTRY NOT ENGAGING IN THE BUSINESS OF INSURANCE, WHEN — HEALTH CARE SHARING MINISTRY DEFINED. — 1. The provisions of this chapter relating to health insurance, health maintenance organizations, health benefit plans, group health services, and health carriers shall not apply to a health care sharing ministry. A health care

sharing ministry which, through its publication to members or subscribers, solicits funds for the payment of medical expenses of other subscribers or members, shall not be considered to be engaging in the business of insurance for purposes of this chapter or any provision of Title XXIV, RSMo, and shall not be subject to the jurisdiction of the director if the requirements of subsection 2 of this section are met.

2. As used in this section, a "health care sharing ministry" is a faith based non-profit organization tax exempt under the Internal Revenue Code that:

(1) Limits its membership to those who are of a similar faith;

(2) Acts as an organizational clearinghouse for information between members or subscribers who have financial, physical, or medical needs and members or subscribers with the present ability to assist those with present financial or medical needs;

(3) Provides for the financial or medical needs of a member or subscriber through gifts directly from one member or subscriber to another. The requirements of this subdivision can be satisfied by a trust established solely for the benefit of members or subscribers, which trust is audited annually by an independent auditing firm;

(4) Provides amounts that members or subscribers may give with no assumption of risk or promise to pay either among the members or subscribers or between the members or subscribers and such organization;

(5) Provides a written monthly statement to all members or subscribers, listing the total dollar amount of qualified needs submitted to such organization, as well as the amount actually published or assigned to members or subscribers for voluntary payment; and

(6) Provides the following written disclaimer on or accompanying all promotional or informational documents distributed by or on behalf of the organization, including applications, and guideline materials.

"NOTICE

This publication is not an insurance company nor is it offered through an insurance company. Whether anyone chooses to assist you with your medical bills will be totally voluntary, as no other subscriber or member will be compelled to contribute toward your medical bills. As such, this publication should never be considered to be insurance. Whether you receive any payments for medical expenses and whether or not this publication continues to operate, you are always personally responsible for the payment of your own medical bills.".

376.1753. SERVICES RELATED TO PREGNANCY, PERSONS HOLDING MINISTERIAL OR TOCOLOGICAL CERTIFICATION MAY PROVIDE. — Notwithstanding any law to the contrary, any person who holds current ministerial or tocological certification by an organization accredited by the National Organization for Competency Assurance (NOCA) may provide services as defined in 42 U.S.C. 1396 r-6(b)(4)(E)(ii)(I).

379.930. SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT — DEFINITIONS. — 1. Sections 379.930 to 379.952 shall be known and may be cited as the "Small Employer Health Insurance Availability Act".

2. For the purposes of sections 379.930 to 379.952**, the following terms shall mean**:

(1) "Actuarial certification" **[**means**] ,** a written statement by a member of the American Academy of Actuaries or other individual acceptable to the director that a small employer carrier is in compliance with the provisions of section 379.936, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans;

(2) "Affiliate" or "affiliated" **[**means**] ,** any entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person;

(3) **[**"Agent" means "insurance agent" as that term is defined in section 375.012, RSMo;

(4)**]** "Base premium rate" **[**means**]**, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business, by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage;

[(5) "Basic health benefit plan" means a lower cost health benefit plan developed pursuant to section 379.944;

(6)**] (4)** "Board" means the board of directors of the program established pursuant to sections 379.942 and 379.943;

[(7) "Broker" means "broker" as that term is defined in section 375.012, RSMo;

(8)**] (5) "Bona fide association", an association which:**

(a) Has been actively in existence for at least five years;

(b) Has been formed and maintained in good faith for purposes other than obtaining insurance;

(c) Does not condition membership in the association on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee);

(d) Makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to such members (or individuals eligible for coverage through a member);

(e) Does not make health insurance coverage offered through the association available other than in connection with a member of the association; and

(f) Meets all other requirements for an association set forth in subdivision (5) of subsection 1 of section 376.421, RSMo, that are not inconsistent with this subdivision;

(6) "Carrier" **[**means**] or "health insurance issuer",** any entity that provides health insurance or health benefits in this state. For the purposes of sections 379.930 to 379.952, carrier includes an insurance company, health services corporation, fraternal benefit society, health maintenance organization, multiple employer welfare arrangement specifically authorized to operate in the state of Missouri, or any other entity providing a plan of health insurance or health benefits subject to state insurance regulation;

[(9)**] (7)** "Case characteristics" **[**means**] ,** demographic or other objective characteristics of a small employer that are considered by the small employer carrier in the determination of premium rates for the small employer, provided that claim experience, health status and duration of coverage since issue shall not be case characteristics for the purposes of sections 379.930 to 379.952;

[(10)**] (8)** "Class of business" **[**means**] ,** all or a separate grouping of small employers established pursuant to section 379.934;

(9) "Church plan", the meaning given such term in Section 3(33) of the Employee Retirement Income Security Act of 1974;

[(11)**] (10)** "Committee" **[**means**] ,** the health benefit plan committee created pursuant to section 379.944;

[(12)**] (11)** "Control" shall be defined in manner consistent with chapter 382, RSMo;

(12) "Creditable coverage", with respect to an individual:

(a) Coverage of the individual under any of the following:

a. A group health plan;

b. Health insurance coverage;

c. Part A or Part B of Title XVIII of the Social Security Act;

d. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under Section 1928 of such act;

e. Chapter 55 of Title 10, United States Code;

f. A medical care program of the Indian Health Service or of a tribal organization;

g. A state health benefits risk pool;

h. A health plan offered under Chapter 89 of Title 5, United States Code;

i. A public health plan, as defined in federal regulations authorized by Section 2701(c)(1)(I) of the Public Health Services Act, as amended by Public Law 104-191; and

j. A health benefit plan under Section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e));

(b) Creditable coverage shall not include coverage consisting solely of excepted benefits;

(13) "Dependent" **[**means**] ,** a spouse or an unmarried child under the age of nineteen years; an unmarried child who is a full-time student under the age of twenty-three years and who is financially dependent upon the parent; or an unmarried child of any age who is medically certified as disabled and dependent upon the parent;

(14) "Director" **[**means**] ,** the director of the department of insurance**, financial institutions and professional registration** of this state;

(15) "Eligible employee" **[**means**] ,** an employee who works on a full-time basis and has a normal work week of thirty or more hours. The term includes a sole proprietor, a partner of a partnership, and an independent contractor, if the sole proprietor, partner or independent contractor is included as an employee under a health benefit plan of a small employer, but does not include an employee who works on a part-time, temporary or substitute basis. For purposes of sections 379.930 to 379.952, a person, his spouse and his minor children shall constitute only one eligible employee when they are employed by the same small employer;

(16) "Established geographic service area" **[**means**] ,** a geographical area, as approved by the director and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage;

(17) **"Excepted benefits":**

(a) Coverage only for accident (including accidental death and dismemberment) insurance;

(b) Coverage only for disability income insurance;

(c) Coverage issued as a supplement to liability insurance;

(d) Liability insurance, including general liability insurance and automobile liability insurance;

(e) Workers' compensation or similar insurance;

(f) Automobile medical payment insurance;

(g) Credit-only insurance;

(h) Coverage for onsite medical clinics;

(i) Other similar insurance coverage, as approved by the director, under which benefits for medical care are secondary or incidental to other insurance benefits;

(j) If provided under a separate policy, certificate or contract of insurance, any of the following:

a. Limited scope dental or vision benefits;

b. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

c. Other similar, limited benefits as specified by the director.

(k) If provided under a separate policy, certificate or contract of insurance, any of the following:

a. Coverage only for a specified disease or illness;

b. Hospital indemnity or other fixed indemnity insurance.

(l) If offered as a separate policy, certificate or contract of insurance, any of the following:

a. Medicare supplemental coverage (as defined under Section 1882(g)(1) of the Social Security Act);

b. Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;

c. Similar supplemental coverage provided to coverage under a group health plan;

(18) "Governmental plan", the meaning given such term under Section 3(32) of the Employee Retirement Income Security Act of 1974 or any federal government plan;

(19) "Group health plan", an employee welfare benefit plan as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974 and Public Law 104-191 to the extent that the plan provides medical care, as defined in this section, and including any item or service paid for as medical care to an employee or the employee's dependent, as defined under the terms of the plan, directly or through insurance, reimbursement or otherwise, but not including excepted benefits;

(20) "Health benefit plan" **[**means any hospital or medical policy or certificate, health services corporation contract, or health maintenance organization subscriber contract. Health benefit plan does not include a policy of individual accident and sickness insurance or hospital supplemental policies having a fixed daily benefit, or accident-only, specified disease-only, credit, dental, vision, Medicare supplement, long-term care, or disability income insurance, or coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, or automobile medical payment insurance**] or "health insurance coverage", benefits consisting of medical care, including items and services paid for as medical care, that are provided directly, through insurance, reimbursement, or otherwise, under a policy, certificate, membership contract, or health services agreement offered by a health insurance issuer, but not including excepted benefits or a policy that is individually underwritten;**

(21) "Health status-related factor", any of the following:

(a) Health status;

(b) Medical condition, including both physical and mental illnesses;

(c) Claims experience;

(d) Receipt of health care;

(e) Medical history;

(f) Genetic information;

(g) Evidence of insurability, including a condition arising out of an act of domestic violence;

(h) Disability;

[(18)**] (22)** "Index rate" **[**means**]**, for each class of business as to a rating period for small employers with similar case characteristics, the arithmetic mean of the applicable base premium rate and the corresponding highest premium rate;

[(19)**] (23)** "Late enrollee" **[**means**] ,** an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer following the initial enrollment period for which such individual is entitled to enroll under the terms of the health benefit plan, provided that such initial enrollment period is a period of at least thirty days. However, an eligible employee or dependent shall not be considered a late enrollee if:

(a) The individual meets each of the following:

a. The individual was covered under **[**qualifying previous**] creditable** coverage at the time of the initial enrollment;

b. The individual lost coverage under **[**qualifying previous**] creditable** coverage as a result of **cessation of employer contribution,** termination of employment or eligibility, **reduction in the number of hours of employment,** the involuntary termination of the **[**qualifying previous**] creditable** coverage, death of a spouse **[**or divorce**] , dissolution or legal separation**;

c. The individual requests enrollment within thirty days after termination of the **[**qualifying previous**] creditable** coverage;

(b) The individual is employed by an employer that offers multiple health benefit plans and the individual elects a different plan during an open enrollment period; or

(c) A court has ordered coverage be provided for a spouse or minor or dependent child under a covered employee's health benefit plan and request for enrollment is made within thirty days after issuance of the court order;

(24) "Medical care", an amount paid for:

(a) The diagnosis, care, mitigation, treatment or prevention of disease, or for the purpose of affecting any structure or function of the body;

(b) Transportation primarily for and essential to medical care referred to in paragraph (a) of this subdivision; or

(c) Insurance covering medical care referred to in paragraphs (a) and (b) of this subdivision;

(25) "Network plan", health insurance coverage offered by a health insurance issuer under which the financing and delivery of medical care, including items and services paid for as medical care, are provided, in whole or in part, through a defined set of providers under contract with the issuer;

[(20)**] (26)** "New business premium rate" **[**means**]**, for each class of business as to a rating period, the lowest premium rate charged or offered, or which could have been charged or offered, by the small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage;

[(21)**] (27)** "Plan of operation" **[**means**] ,** the plan of operation of the program established pursuant to sections 379.942 and 379.943;

(28) "Plan sponsor", the meaning given such term under Section 3(16)(B) of the Employee Retirement Income Security Act of 1974;

[(22)**] (29)** "Premium" **[**means**] ,** all moneys paid by a small employer and eligible employees as a condition of receiving coverage from a small employer carrier, including any fees or other contributions associated with the health benefit plan;

[(23)**] (30)** "Producer"**, the meaning given such term in section 375.012, RSMo, and** includes an insurance agent or broker;

[(24)**] (31)** "Program" **[**means**] ,** the Missouri small employer health reinsurance program created pursuant to sections 379.942 and 379.943;

[(25) "Qualifying previous coverage" and "qualifying existing coverage" mean benefits or coverage provided under:

(a) Medicare or Medicaid;

(b) An employer-based health insurance or health benefit arrangement that provides benefits similar to or exceeding benefits provided under the basic health benefit plan; or

(c) An individual health insurance policy (including coverage issued by a health maintenance organization, health services corporation or a fraternal benefit society) that provides benefits similar to or exceeding the benefits provided under the basic health benefit plan, provided that such policy has been in effect for a period of at least one year;

(26)**] (32)** "Rating period" **[**means**] ,** the calendar period for which premium rates established by a small employer carrier are assumed to be in effect;

[(27)**] (33)** "Restricted network provision" **[**means**] ,** any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier pursuant to section 354.400, RSMo, et seq. to provide health care services to covered individuals;

[(28)**] (34)** "Small employer" **[**means**] , in connection with a group health plan with respect to a calendar year and a plan year,** any person, firm, corporation, partnership **[**or**] ,** association**, or political subdivision** that is actively engaged in business that**[**, on at least fifty percent of its working days during the preceding calendar quarter, employed not less than three nor**] employed an average of at least two but no** more than **[**twenty-five**] fifty** eligible employees**[**, the majority of whom were employed within this state. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of state taxation, shall be considered one employer**] on business days during the preceding calendar year and that employs at least two employees on the first day of the plan year. All persons treated as a single employer under subsection (b), (c), (m) or (o) of Section 414 of the Internal Revenue Code of 1986 shall be treated as one employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining continued eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, the provisions of sections**

379.930 to 379.952 that apply to a small employer shall continue to apply at least until the plan anniversary following the date the small employer no longer meets the requirements of this definition. In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether the employer is a small or large employer shall be based on the average number of employees that it is reasonably expected that the employer will employ on business days in the current calendar year. Any reference in sections 379.930 to 379.952 to an employer shall include a reference to any predecessor of such employer;

[(29)**] (35)** "Small employer carrier" **[**means**] ,** a carrier that offers health benefit plans covering eligible employees of one or more small employers in this state**[**;

(30) "Standard health benefit plan" means a health benefit plan developed pursuant to section 379.944**]**.

3. Other terms used in sections 379.930 to 379.952 not set forth in subsection 2 of this section shall have the same meaning as defined in section 376.450, RSMo.

379.936. PREMIUM RATES, SUBJECT TO CONDITIONS — NO TRANSFER OUT OF CLASS OF BUSINESS — DISCLOSURE REQUIRED, CONTENTS — RATING AND RENEWAL RECORDS REQUIRED TO BE KEPT. — 1. Premium rates for health benefit plans subject to sections 379.930 to 379.952 shall be subject to the following provisions:

(1) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than twenty percent;

(2) For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to such employers under the rating system for that class of business shall not vary from the index rate by more than **[**twenty-five**] thirty-five** percent of the index rate;

(3) The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers;

(b) Any adjustment, not to exceed fifteen percent annually and adjusted pro rata for rating periods of less than one year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small employer, as determined from the small employer carrier's rate manual for the class of business;

(4) Adjustments in rates for claim experience, health status and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer;

(5) Premium rates for health benefit plans shall comply with the requirements of this section notwithstanding any assessments paid or payable by small employer carriers pursuant to sections 379.942 and 379.943;

(6) A small employer carrier may utilize the employer's industry as a case characteristic in establishing premium rates, provided that the rate factor associated with any industry classification shall not vary by more than ten percent from the arithmetic mean of the highest and lowest rate factors associated with all industry classifications;

(7) In the case of health benefit plans issued prior to July 1, 1993, a premium rate for a rating period may exceed the ranges set forth in subdivisions (1) and (2) of this subsection for a period of three years following July 1, 1993. In such case, the percentage increase in the premium rate charged to a small employer for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, provided that such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers;

(b) Any adjustment due to change in coverage or change in the case characteristics of the small employer, as determined from the carrier's rate manual for the class of business;

(8) (a) Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans;

(b) A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period;

(9) For the purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a network, provided that utilization of the restricted provider network results in substantial differences in claims costs;

(10) A small employer carrier shall not use case characteristics, other than age, sex, industry, geographic area, family composition, and group size without prior approval of the director;

(11) The director may promulgate rules to implement the provisions of this section and to assure that rating practices used by small employer carriers are consistent with the purposes of sections 379.930 to 379.952, including:

(a) Assuring that differences in rates charged for health benefit plans by small employer carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the groups assumed to select particular health benefit plans; and

(b) Prescribing the manner in which case characteristics may be used by small employer carriers.

2. A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage.

3. The director may suspend for a specified period the application of subdivision (1) of subsection 1 of this section as to the premium rates applicable to one or more small employers included within a class of business of a small employer carrier for one or more rating periods upon a filing by the small employer carrier and a finding by the director either that the suspension is reasonable in light of the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

4. In connection with the offering for sale of any health benefit plan to a small employer, a small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of all of the following:

(1) The extent to which premium rates for a specified small employer are established or adjusted based upon the actual or expected variation in claims costs or actual or expected variation in health status of the employees of the small employer and their dependents;

(2) The provisions of the health benefit plan concerning the small employer carrier's right to change premium rates and factors, other than claim experience, that affect changes in premium rates;

(3) The provisions relating to renewability of policies and contracts; and

(4) The provisions relating to any preexisting condition provision.

5. (1) Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(2) Each small employer carrier shall file with the director annually on or before March fifteenth an actuarial certification certifying that the carrier is in compliance with sections 379.930 to 379.952 and that the rating methods of the small employer carrier are actuarially sound. Such certification shall be in a form and manner, and shall contain such information, as specified by the director. A copy of the certification shall be retained by the small employer carrier at its principal place of business.

(3) A small employer carrier shall make the information and documentation described in subdivision (1) of this section available to the director upon request.

379.938. RENEWABILITY, EXCEPTIONS — CARRIER NOT RENEWING PROHIBITED FROM WRITING NEW BUSINESS IN MARKET, WHEN — APPLICATION OF SECTION IN CERTAIN GEOGRAPHIC AREAS. — 1. A health benefit plan subject to sections 379.930 to 379.952 shall be renewable with respect to all eligible employees and dependents, at the option of the small employer, except in any of the following cases:

(1) **[**Nonpayment of the required premiums**] The plan sponsor fails to pay a premium or contribution in accordance with the terms of a health benefit plan or the health carrier has not received a timely premium payment**;

(2) **[**Fraud or misrepresentation of the small employer or, with respect to coverage of individual insureds, the insureds or their representatives**] The plan sponsor performs an act or practice that constitutes fraud, or makes an intentional misrepresentation of material fact under the terms of the coverage**;

(3) Noncompliance with the carrier's minimum participation requirements;

(4) Noncompliance with the carrier's employer contribution requirements;

(5) **[**Repeated misuse of a provider network provision; or

(6) The small employer carrier elects to nonrenew all of its health benefit plans delivered or issued for delivery to small employers in this state. In such a case the carrier shall:

(a) Provide advance notice of its decision under this subdivision to the insurance supervisory official in each state in which it is licensed; and

(b) Provide notice of the decision not to renew coverage to all affected small employers and to the insurance supervisory official in each state in which an affected covered individual is known to reside at least one hundred eighty days prior to the nonrenewal of any health benefit plan by the carrier. Notice to the insurance supervisory official under this paragraph shall be provided at least three working days prior to the notice to the affected small employers;

(7)**] In the case of a small employer carrier that offers coverage through a network plan, there is no longer any enrollee under the health benefit plan who lives, resides or works in the service area of the health insurance issuer and the small employer carrier would deny enrollment with respect to such plan under subsection 4 of this section;**

(6) The small employer carrier elects to discontinue offering a particular type of health benefit plan in the state's small group market. A type of health benefit plan may be discontinued by a small employer carrier in such market only if such carrier:

(a) Issues a notice to each plan sponsor provided coverage of such type in the small group market (and participants and beneficiaries covered under such coverage) of the discontinuation at least ninety days prior to the date of discontinuation of the coverage;

(b) Offers to each plan sponsor provided coverage of such type the option to purchase all other health benefit plans currently being offered by the small employer carrier in the state's small group market; and

(c) Acts uniformly without regard to the claims experience of those plan sponsors or any health status-related factor relating to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for such coverage;

(7) A small employer carrier elects to discontinue offering all health insurance coverage in the small group market in this state. A small employer carrier shall not discontinue offering all health insurance coverage in the small employer market unless:

(a) The carrier provides notice of discontinuation to the director and to each plan sponsor (and participants and beneficiaries covered under such coverage) at least one hundred eighty days prior to the date of the discontinuation of coverage; and

(b) All health insurance issued or delivered for issuance in Missouri in the small employer market is discontinued and coverage under such health insurance is not renewed;

(8) In the case of health insurance coverage that is made available in the small group market only through one or more bona fide associations, the membership of an employer in the association (on the basis of which the coverage is provided) ceases but only if such coverage is terminated under this subdivision uniformly without regard to any health status-related factor relating to any covered individual;

(9) The director finds that the continuation of the coverage would:

(a) Not be in the best interests of the policyholders or certificate holders; or

(b) Impair the carrier's ability to meet its contractual obligations.

In such instance the director shall assist affected small employers in finding replacement coverage.

2. A small employer carrier that elects not to renew a health benefit plan under subdivision **[**(6)**] (7)** of subsection 1 of this section shall be prohibited from writing new business in the small employer market in this state for a period of five years from the date of notice to the director.

3. In the case of a small employer carrier doing business in one established geographic service area of the state, the provisions of this section shall apply only to the carrier's operations in such service area.

4. At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a product offered to a group health plan in the small group market if, for coverage that is available in such market other than only through one or more bona fide associations, such modification is consistent with state law and effective on a uniform basis among group health plans with that product. For purposes of this subsection, renewal shall be deemed to occur not more often than annually on the anniversary of the effective date of the group health plan's health insurance coverage unless a longer term is specified in the policy or contract.

5. In the case of health insurance coverage that is made available by a small employer carrier only through one or more bona fide associations, references to "plan sponsor" in this section is deemed, with respect to coverage provided to a small employer member of the association, to include a reference to such employer.

379.940. CARRIERS TO OFFER ALL HEALTH PLANS IN MARKET — HEALTH BENEFIT PLANS, REQUIREMENTS — EXCLUSION OF COVERAGE FOR CERTAIN EMPLOYEES. — 1. (1) Every small employer carrier shall, as a condition of transacting business in this state with small employers, actively offer to small employers **[**at least two health benefit plans. One plan offered by each small employer carrier shall be a basic health benefit plan and one plan shall be a

standard health benefit plan**] all health benefit plans it actively markets to small employers in this state, except for plans developed for health benefit trust funds**.

(2) (a) A small employer carrier shall issue a **[**basic health benefit plan or a standard**]** health benefit plan to any eligible small employer that applies for either such plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with sections 379.930 to 379.952.

(b) In the case of a small employer carrier that establishes more than one class of business pursuant to section 379.934, the small employer carrier shall maintain and issue to eligible small employers **[**at least one basic health benefit plan and at least one standard**] all** health benefit **[**plan**] plans** in each class of business so established. A small employer carrier may apply reasonable criteria in determining whether to accept a small employer into a class of business, provided that:

a. The criteria are not intended to discourage or prevent acceptance of small employers applying for a **[**basic or standard**]** health benefit plan;

b. The criteria are not related to the health status or claim experience of the small employer;

c. The criteria are applied consistently to all small employers applying for coverage in the class of business; and

d. The small employer carrier provides for the acceptance of all eligible small employers into one or more classes of business. The provisions of this paragraph shall not apply to a class of business into which the small employer carrier is no longer enrolling new small employers.

[(3) A small employer is eligible under subdivision (2) of this subsection if it employed at least three or more eligible employees within this state on at least fifty percent of its working days during the preceding calendar quarter.

(4) The provisions of this subsection shall be effective one hundred eighty days after the director's approval of the basic health benefit plan and the standard health benefit plan developed pursuant to section 379.944, provided that if the small employer health reinsurance program created pursuant to sections 379.942 and 379.943 is not yet in operation on such date, the provisions of this subsection shall be effective on the date that such program begins operation.**]**

2. Health benefit plans covering small employers shall comply with the following provisions:

(1) A health benefit plan shall **[**not deny, exclude or limit benefits for a covered individual for losses incurred more than twelve months following the effective date of the individual's coverage due to a preexisting condition. A health benefit plan shall not define a preexisting condition more restrictively than:

(a) A condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment during the six months immediately preceding the effective date of coverage;

(b) A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six months immediately preceding the effective date of coverage; or

(c) A pregnancy existing on the effective date of coverage.

(2) A health benefit plan shall waive any time period applicable to a preexisting condition exclusion or limitation period with respect to particular services for the period of time an individual was previously covered by qualifying previous coverage that provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not less than thirty days prior to the effective date of the new coverage. This subdivision does not preclude application of any waiting period applicable to all new enrollees under the health benefit plan.

(3) A health benefit plan may exclude coverage for late enrollees for the greater of eighteen months or provide for an eighteen-month preexisting condition exclusion, provided that if both a period of exclusion from coverage and a preexisting condition exclusion are applicable to a late enrollee, the combined period shall not exceed eighteen months from the date the individual enrolls for coverage under the health benefit plan.

(4)**] comply with the provisions of sections 376.450 and 376.451, RSMo.**

(2) (a) Except as provided in paragraph (d) of this subdivision, requirements used by a small employer carrier in determining whether to provide coverage to a small employer, including requirements for minimum participation of eligible employees and minimum employer contributions, shall be applied uniformly among all small employers with the same number of eligible employees applying for coverage or receiving coverage from the small employer carrier.

(b) A small employer carrier **[**may vary application of minimum participation requirements only by the size of the small employer group**] shall not require a minimum participation level greater than:**

a. One hundred percent of eligible employees working for groups of three or less employees; and

b. Seventy-five percent of eligible employees working for groups with more than three employees.

(c) **[**a. Except as provided in paragraph (b) of this subdivision,**]** In applying minimum participation requirements with respect to a small employer, a small employer carrier shall not consider employees or dependents who have qualifying existing coverage in determining whether the applicable percentage of participation is met.

[b. With respect to a small employer with ten or fewer eligible employees, a small employer carrier may consider employees or dependents who have coverage under another health benefit plan sponsored by such small employer in applying minimum participation requirements.**]**

(d) A small employer carrier shall not increase any requirement for minimum employee participation or **modify** any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

[(5)**] (3)** (a) If a small employer carrier offers coverage to a small employer, the small employer carrier shall offer coverage to all of the eligible employees of a small employer and their dependents **who apply for enrollment during the period in which the employee first becomes eligible to enroll under the terms of the plan**. A small employer carrier shall not offer coverage to only certain individuals **or dependents** in a small employer group or to only part of the group**[**, except in the case of late enrollees as provided in subdivision (3) of this subsection**]**.

(b) A small employer carrier shall not modify a **[**basic or standard**]** health benefit plan with respect to a small employer or any eligible employee or dependent through riders, endorsements or otherwise, to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

(c) An eligible employee may choose to retain their individually underwritten health benefit plan at the time such eligible employee is entitled to enroll in a small employer health benefit plan. If the eligible employee retains their individually underwritten health benefit plan, a small employer may provide a defined contribution through the establishment of a cafeteria 125 plan under section 379.953. Small employers shall establish an equal amount of defined contribution for all plans. If an eligible employee retains their individually underwritten health benefit plan under this subdivision, the provisions of sections 379.930 to 379.952, RSMo, shall not apply to the individually underwritten health benefit plan.

3. (1) **Subject to subdivision (3) of this subsection,** a small employer carrier shall not be required to offer coverage or accept applications pursuant to subsection 1 of this section in the case of the following:

(a) To a small employer, where the small employer is not physically located in the carrier's established geographic service area;

(b) To an employee, when the employee does not **live,** work or reside within the carrier's established geographic service area; or

(c) Within an area where the small employer carrier reasonably anticipates, and demonstrates to the satisfaction of the director, that it will not have the capacity within its

established geographic service area to deliver service adequately to the members of such groups because of its obligations to existing group policyholders and enrollees.

(2) A small employer carrier that cannot offer coverage pursuant to paragraph (c) of subdivision (1) of this subsection may not offer coverage in the applicable area to new cases of employer groups with more than **[**twenty-five**] fifty** eligible employees or to any small employer groups until the later of one hundred eighty days following each such refusal or the date on which the carrier notifies the director that it has regained capacity to deliver services to small employer groups.

(3) A small employer carrier shall apply the provisions of this subsection uniformly to all small employers without regard to the claims experience of a small employer and its employees and their dependents or any health status-related factor relating to such employees and their dependents.

4. A small employer carrier shall not be required to provide coverage to small employers pursuant to subsection 1 of this section for any period of time for which the director determines that requiring the acceptance of small employers in accordance with the provisions of subsection 1 of this section would place the small employer carrier in a financially impaired condition**[**.

5. Sections 379.930 to 379.938 and sections 379.942 to 379.950 shall become effective July 1, 1993, this section and section 379.952 shall become effective July 1, 1994**] , and the small employer is applying this subsection uniformly to all small employers in the small group market in this state consistent with applicable state law and without regard to the claims experience of a small employer and its employees and their dependents or any health status-related factor relating to such employees and their dependents**.

379.952. CARRIERS TO MARKET PLAN COVERAGE — AGENT OR BROKER, PROHIBITED ACTIVITIES, EXCEPTION — VARIANCE IN COMPENSATION PROHIBITED, EXCEPTIONS — CARRIERS, PROHIBITED ACTIVITIES — DENIAL OF APPLICATION, REQUIREMENTS — PENALTY — APPLICABILITY TO THIRD PARTY ADMINISTRATORS. — 1. Each small employer carrier shall actively market **[**health benefit plan coverage, including the basic and standard health benefit plans, to eligible small employers in the state. If a small employer carrier denies coverage to a small employer on the basis of the health status or claims experience of the small employer or its employees or dependents, the small employer carrier shall offer the small employer the opportunity to purchase a basic health benefit plan or a standard health benefit plan**] all health benefit plans sold by the carrier in the small group market to eligible employers in the state, except for plans developed for health benefit trust funds**.

2. (1) Except as provided in subdivision (2) of this subsection, no small employer carrier or agent or broker shall, directly or indirectly, engage in the following activities:

(a) Encouraging or directing small employers to refrain from filing an application for coverage with the small employer carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer;

(b) Encouraging or directing small employers to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(2) The provisions of subdivision (1) of this subsection shall not apply with respect to information provided by a small employer carrier or agent or broker to a small employer regarding the established geographic service area or a restricted network provision of a small employer carrier.

3. (1) Except as provided in subdivision (2) of this subsection, no small employer carrier shall, directly or indirectly, enter into any contract, agreement or arrangement with an agent or broker that provides for or results in the compensation paid to an agent or broker for the sale of a health benefit plan to be varied because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(2) Subdivision (1) of this subsection shall not apply with respect to a compensation arrangement that provides compensation to an agent or broker on the basis of percentage of premium, provided that the percentage shall not vary because of the health status, claims experience, industry, occupation or geographic area of the small employer.

4. A small employer carrier shall provide reasonable compensation, as provided under the plan of operation of the program, to an agent or broker, if any, for the sale of a basic or standard health benefit plan.

5. No small employer carrier shall terminate, fail to renew or limit its contract or agreement of representation with an agent or broker for any reason related to the health status, claims experience, occupation, or geographic location of the small employers placed by the agent or broker with the small employer carrier.

6. No small employer carrier or producer shall induce or otherwise encourage a small employer to separate or otherwise exclude an employee from health coverage or benefits provided in connection with the employee's employment; except that, a carrier may offer a policy to a small employer that charges a reduced premium rate or deductible for employees who do not smoke or use tobacco products, and such carrier shall not be considered in violation of sections 379.930 to 379.952 or any unfair trade practice, as defined in section 379.936, even if only some small employers elect to purchase such a policy and other small employers do not.

7. Denial by a small employer carrier of an application for coverage from a small employer shall be in writing and shall state the reason or reasons for the denial with specificity.

8. The director may promulgate rules setting forth additional standards to provide for the fair marketing and broad availability of health benefit plans to small employers in this state.

9. (1) A violation of this section by a small employer carrier or a producer shall be an unfair trade practice under sections 375.930 to 375.949, RSMo.

(2) If a small employer carrier enters into a contract, agreement or other arrangement with a third-party administrator to provide administrative marketing or other services related to the offering of health benefit plans to small employers in this state, the third-party administrator shall be subject to this section as if it were a small employer carrier.

[379.942. MISSOURI SMALL EMPLOYER HEALTH REINSURANCE PROGRAM CREATED — MANDATORY PARTICIPATION — OPT OUT, DIRECTOR'S DETERMINATION — BOARD MEMBERS, QUALIFICATIONS — EXPANSION OF BOARD, WHEN — TERMS, VACANCIES — FILING REQUIREMENTS. — 1. There is hereby created a nonprofit entity to be known as the "Missouri Small Employer Health Reinsurance Program". All small employer carriers shall participate in the program as reinsuring carriers for a minimum of three years beginning July 1, 1993. After the expiration of such three years, a small employer carrier may apply to the director to opt out of the program. The director shall decide whether to grant such an application to opt out, and shall consider in making such determination only: the carrier's financial condition and the financial condition of its guaranteeing or reinsuring corporation, if any; its history of assuming and managing risk; its ability to assume and manage the risk of enrolling small employers without the protection of the program; and its commitment to market fairly to all small employers in its service area. If the director grants such application, the small employer carrier shall participate in the program neither as a ceding nor reinsuring carrier.

2. (1) The program shall operate subject to the supervision and control of the board. Subject to the provisions of subdivision (2) of this subsection, the board shall consist of nine members appointed by the director plus the director or his designated representative, who shall serve as an ex officio member of the board.

(2) (a) In selecting the members of the board, the director shall include representatives of small employers, small employer employees or their representatives and small employer carriers and such other individuals determined to be qualified by the director. At least five of the members of the board shall be representatives of reinsuring carriers and at least one of the members of the board shall be a representative of a health maintenance organization which is a

small employer carrier. All members shall be selected from individuals nominated by small employer carriers in this state pursuant to procedures and guidelines developed by the director, except that the director shall select two small employers' employees, including at least one representative of a labor organization.

(b) In the event that the program becomes eligible for additional financing pursuant to subdivision (3) of subsection 8 of section 379.943, the board shall be expanded to include two additional members who shall be appointed by the director. In selecting the additional members of the board, the director shall choose individuals who represent reinsuring carriers. The expansion of the board under this paragraph shall continue for the period that the program continues to be eligible for additional financing under subdivision (3) of subsection 8 of section 379.943.

(3) The initial board members shall be appointed as follows: one-third of the members to serve a term of two years; one-third of the members to serve a term of four years; and one-third of the members to serve a term of six years. Subsequent board members shall serve for a term of three years. A board member's term shall continue until his successor is appointed.

(4) A vacancy in the board shall be filled by the director. A board member may be removed by the director for cause.

3. Within sixty days of July 1, 1993, each small employer carrier shall make a filing with the director containing the carrier's net health insurance premium derived from health benefit plans delivered or issued for delivery to small employers in this state in the previous calendar year.**]**

[379.943. PLAN OF OPERATION, CONTENTS, POWERS — REINSURANCE OF SMALL EMPLOYER GROUP — PREMIUM RATES, REVIEW — REPORT TO DIRECTOR, FORMULA TO BE DEVELOPED — STANDARDS OF COMPENSATION — EXEMPTION FROM TAXATION — DIRECTOR TO ASSESS COMPANIES, PAYMENT OF ASSESSMENT — EXPIRATION DATE. — 1. Within one hundred eighty days after the appointment of the initial board, the board shall submit to the director a plan of operation and thereafter any amendments thereto necessary or suitable, to assure the fair, reasonable and equitable administration of the program. The director may, after notice and hearing, approve the plan of operation if the director determines it to be suitable to assure the fair, reasonable and equitable administration of the program, and provides for the sharing of program gains or losses on an equitable and proportionate basis in accordance with the provisions of section 379.942 and this section. The plan of operation shall become effective upon approval in writing by the director.

2. If the board fails to submit a suitable plan of operation within one hundred eighty days after its appointment, the director shall, after notice and hearing, promulgate and adopt a temporary plan of operation. The director shall amend or rescind any plan so adopted under this subsection at the time a plan of operation is submitted by the board and approved by the director.

3. The plan of operation shall:

(1) Establish procedures for handling and accounting of program assets and moneys and for an annual fiscal report to the director;

(2) Establish procedures for selecting an administering carrier and setting forth the powers and duties of the administering carrier;

(3) Establish procedures for reinsuring risks in accordance with the provisions of section 379.942 and this section;

(4) Establish procedures for collecting assessments from reinsuring carriers to fund claims and administrative expenses incurred or estimated to be incurred by the program; and

(5) Provide for any additional matters necessary for the implementation and administration of the program.

4. The program shall have the general powers and authority granted under the laws of this state to insurance companies and health maintenance organizations licensed to transact business, except the power to issue health benefit plans directly to either groups or individuals. In addition thereto, the program shall have the specific authority to:

(1) Enter into contracts as necessary or proper to carry out the provisions and purposes of sections 379.930 to 379.952, including the authority, with the approval of the director, to enter into contracts with similar programs in other states for the joint performance of common functions or with persons or other organizations for the performance of administrative functions;

(2) Sue or be sued, including taking any legal actions necessary or proper to recover any assessments and penalties for, on behalf of, or against the program or any reinsuring carriers;

(3) Take any legal action necessary to avoid the payment of improper claims against the program;

(4) Define the health benefit plans for which reinsurance will be provided, and to issue reinsurance policies, in accordance with the requirements of sections 379.930 to 379.952;

(5) Establish rules, conditions and procedures for reinsuring risks under the program;

(6) Establish actuarial functions as appropriate for the operation of the program;

(7) Assess carriers in accordance with the provisions of subsection 8 of this section, and to make advance interim assessments as may be reasonable and necessary for organizational and interim operating expenses. Any interim assessments shall be credited as offsets against any regular assessments due following the close of the calendar year;

(8) Appoint appropriate legal, actuarial and other committees as necessary to provide technical assistance in the operation of the program, policy and other contract design, and any other function within the authority of the program; and

(9) Borrow money to effect the purposes of the program. Any notes or other evidence of indebtedness of the program not in default shall be legal investments for carriers and may be carried as admitted assets.

5. A small employer carrier participating in the program may reinsure an entire small employer group with the program as provided for in this subsection:

(1) With respect to a basic health benefit plan or a standard health benefit plan, the program shall reinsure the level of coverage provided and, with respect to other plans, the program shall reinsure up to the level of coverage provided in a basic or standard health benefit plan.

(2) A small employer carrier may reinsure an entire small employer group within sixty days of the commencement of the group's coverage under a health benefit plan or within thirty days after an annual renewal of a small employer group.

(3) (a) The program shall not reimburse a small employer carrier with respect to the claims of an employee or dependent who is part of a reinsured small employer group until the carrier has incurred an initial level of claims for such employee or dependent of five thousand dollars in a calendar year for benefits covered by the program. In addition, the small employer carrier shall be responsible for ten percent of the remaining incurred claims during a calendar year and the program shall reinsure the remainder. A small employer carrier's liability under this paragraph shall not exceed a maximum limit of twenty-five thousand dollars in any one calendar year with respect to any individual who is part of a reinsured small employer group.

(b) The board annually shall adjust the initial level of claims and the maximum limit to be retained by the carrier to reflect increases in costs and utilization within the standard market for health benefit plans within the state. The adjustment shall not be less than the annual change in the medical component of the Consumer Price Index for All Urban Consumers of the federal Department of Labor, Bureau of Labor Statistics, unless the board proposes and the director approves a lower adjustment factor.

(4) A small employer carrier may terminate reinsurance for a small employer on any plan anniversary.

6. (1) The board, as part of the plan of operation, shall establish a methodology for determining premium rates to be charged by the program for reinsuring small employers and individuals pursuant to section 379.942 and this section. The methodology shall include a system for classification of small employers that reflects the types of case characteristics commonly used by small employer carriers in the state. The methodology shall also include a

system for classification of small employer carriers that reflects the degree to which the small employer carrier uses the cost containment features adopted by the health benefit plan committee under section 379.944. The methodology shall provide for the development of base reinsurance premium rates, which shall be multiplied by the factors set forth in subdivision (2) of this act to determine the premium rates for the program. The base reinsurance premium rates shall be established by the board, subject to the approval of the director, and shall be set at levels which reasonably approximate gross premiums charged to small employers by small employer carriers for health benefit plans with benefits similar to the standard health benefit plan.

(2) Only an entire small employer group may be reinsured, and the rate for such reinsurance shall be one and one-half times the base reinsurance insurance premium rate for the group established pursuant to this subsection.

(3) The board periodically shall review the methodology established under subdivisions (1) and (2) of this section, including the system of classification and any rating factors, to assure that it reasonably reflects the claims experience of the program. The board may propose changes to the methodology which shall be subject to the approval of the director.

7. If a health benefit plan for a small employer is reinsured with the program, the premium charged to the small employer for any rating period for the coverage issued shall meet the requirements relating to premium rates set forth in section 379.936.

8. (1) Prior to March first of each year, the board shall determine and report to the director the program net loss for the previous calendar year, including administrative expenses and incurred losses for the year, taking into account investment income and other appropriate gains and losses.

(2) Any net loss for the year shall be recouped by assessments of reinsuring carriers.

(a) The board shall establish, as part of the plan of operation, a formula by which to make assessments against reinsuring carriers and small employer carriers. The assessment formula shall be based on:

a. The share of each reinsuring carrier which reinsures any small employer group with the program, of the program net loss described in this subsection shall be their proportionate share, determined by premiums earned in the preceding calendar year from health benefit plans which have been ceded to the program, times one-half of the total program net loss;

b. Each reinsuring carrier's share of the program net loss described in this subsection shall be its proportionate share, determined by premiums earned in the preceding calendar year from all health benefit plans delivered or issued for delivery to small employers in this state by all reinsuring carriers, times one-half of the total program net loss. An assessment levied or paid by a reinsuring carrier pursuant to subparagraph a of this paragraph shall not be credited or offset against any assessment levied pursuant to this subparagraph.

(b) The formula established pursuant to paragraph (a) of this subdivision shall not result in any reinsuring carrier having an assessment share that is less than fifty percent nor more than one hundred fifty percent of an amount which is based on the proportion of the small employer carrier's total premiums earned in the preceding calendar year from health benefit plans delivered or issued for delivery to small employers in this state by small employer carriers to total premiums earned in the preceding calendar year from health benefit plans delivered or issued for delivery to small employers in this state by all small employer carriers.

(c) The director by rule and after a hearing thereon may change the assessment formula established pursuant to paragraph (a) of this subdivision from time to time as appropriate. The director may provide for the shares of the assessment base attributable to premiums from all health benefit plans and to premiums from health benefit plans ceded to the program to vary during a transition period.

(d) Subject to the approval of the director, the board shall make an adjustment to the assessment formula for reinsuring carriers that are approved health maintenance organizations which are federally qualified under 42 U.S.C. Section 300, et seq., to the extent, if any, that restrictions are placed on them that are not imposed on other small employer carriers.

(e) Premiums and benefits payable by a reinsuring carrier that are less than an amount determined by the board to justify the cost of collection shall not be considered for purposes of determining assessments.

(3) (a) Prior to March first of each year, the board shall determine and file with the director an estimate of the assessments needed to fund the losses incurred by the program in the previous calendar year.

(b) If the board determines that the assessments needed to fund the losses incurred by the program in the previous calendar year will exceed the amount specified in paragraph (c) of this subdivision, the board shall evaluate the operation of the program and report its findings, including any recommendations for changes to the plan of operation, to the director within ninety days following the end of the calendar year in which the losses were incurred. The evaluation shall include: an estimate of future assessments, the administrative costs of the program, the appropriateness of the premiums charged and the level of insurer retention under the program and the costs of coverage for small employers. If the board fails to file a report with the director within ninety days following the end of the applicable calendar year, the director may evaluate the operations of the program and implement such amendments to the plan of operation the director deems necessary to reduce future losses and assessments.

(c) For any calendar year, the amount specified in this paragraph is five percent of total premiums earned in the previous year from health benefit plans delivered or issued for delivery to small employers in this state by reinsuring carriers.

(d) a. If assessments in each of two consecutive calendar years exceed the amount specified in paragraph (c) of this subdivision, the program shall be eligible to receive additional financing as provided in subparagraph b of this paragraph.

b. The additional financing provided for in subparagraph a of this paragraph shall be obtained from additional assessments apportioned among all carriers which are not small employer carriers; the amount of the assessment for each carrier determined by the carrier's proportionate share of premiums earned in the preceding calendar year from all health benefit plans delivered, issued for delivery or continued in this state to individuals and groups, other than small employer groups subject to sections 379.930 to 379.952, by all carriers, times the total amount of additional financing to be obtained.

c. The additional assessment provided by subparagraph b of this paragraph shall not exceed an amount equal to one percent of the gross premium derived by that carrier from all health benefit plans delivered, issued for delivery or continued in this state to individuals and groups, other than small employer groups subject to sections 379.930 to 379.952.

d. Any loss sustained by the program which is not reimbursed by additional financing obtained pursuant to this paragraph shall be carried forward to the calendar year succeeding the year in which the loss is sustained, and shall be recouped by an increase in premiums charged by the board for reinsurance of small employer groups with the program.

e. Additional financing received by the program pursuant to this paragraph shall be distributed to reinsuring carriers in proportion to the assessments paid by such carriers over the previous two calendar years.

(4) If assessments exceed net losses of the program, the excess shall be held at interest and used by the board to offset future losses or to reduce program premiums. As used in this paragraph, "future losses" includes reserves for incurred but not reported claims.

(5) Each carrier's proportion of the assessment shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed by the carriers with the board.

(6) The plan of operation shall provide for the imposition of an interest penalty for late payment of assessments.

(7) A carrier may seek from the director a deferment from all or part of an assessment imposed by the board. The director may defer all or part of the assessment of a carrier if the director determines that the payment of the assessment would place the carrier in a financially

impaired condition. If all or part of an assessment against a carrier is deferred, the amount deferred shall be assessed against the other participating carriers in a manner consistent with the basis for assessment set forth in this subsection. The carrier receiving such deferment shall remain liable to the program for the amount deferred and the interest penalty provided in subdivision (6) of this subsection and shall be prohibited from reinsuring any groups in the program until such time as it pays such assessments.

9. Neither the participation in the program as reinsuring carriers, the establishment of rates, forms or procedures, nor any other joint or collective action required by sections 379.930 to 379.952 shall be the basis of any legal action, criminal or civil liability, or penalty against the program or any of its reinsuring carriers either jointly or separately, other than any action by the director to enforce the provisions of sections 379.930 to 379.952.

10. The board, as part of the plan of operation, shall develop standards setting forth the manner and levels of compensation to be paid to producers for the sale of basic and standard health benefit plans. In establishing such standards, the board shall take into the consideration: the need to assure the broad availability of coverages; the objectives of the program; the time and effort expended in placing the coverage; the need to provide ongoing service to the small employer; the levels of compensation currently used in the industry; and the overall costs of coverage to small employers selecting these plans.

11. The program shall be exempt from any and all taxes.

12. The director shall make an initial assessment of one thousand dollars on each insurance company authorized to transact accident or health insurance, each health services corporation, and each health maintenance organization. Initial assessments shall be made during January, 1993, and shall be paid before April 1, 1993. Initial assessments shall be deposited into the department of insurance dedicated fund. Within ten days after the effective date of the program's plan of operation, the total amount of the initial assessments shall be transferred at the request of the director to the Missouri small employer health reinsurance program. The program may use such initial assessment in the same manner and for the same purposes as other assessments pursuant to section 379.942 and this section.

13. The program, as defined in section 379.930, shall not accept any new risks or renew any existing risk on or after October 1, 2005.

14. Any program assets or moneys that exceed six hundred thousand dollars on August 28, 2005, shall be delivered on October 1, 2005, to the Missouri health insurance pool as established in sections 376.960 to 376.989, RSMo, and shall be accepted by the Missouri health insurance pool and used for the administration and operation of the Missouri health insurance pool.

15. Any program assets or moneys that remain on October 1, 2006, shall be delivered on October 31, 2006, to the Missouri health insurance pool as established in sections 376.960 to 376.989, RSMo, and shall be accepted by the Missouri health insurance pool and used for the administration and operation of the Missouri health insurance pool.

16. The provisions of this section shall expire on December 31, 2006.**]**

[379.944. HEALTH BENEFIT PLAN COMMITTEE, APPOINTMENT — MEMBERS, QUALIFICATIONS — DUTIES, RECOMMENDATIONS, PLANS, CONTENTS — SUBMISSION FOR APPROVAL. — 1. The director shall appoint a seven-member "Health Benefit Plan Committee". The committee shall be composed of one representative from each of the following categories: an insurance company which is a small employer carrier, a health services corporation which is a small employer carrier, a health maintenance organization which is a small employer carrier, a health care provider, and a small employer. The director shall select two representatives of employees of small employers, including at least one representative of a labor organization.

2. The committee shall recommend the form and level of coverages to be made available by small employer carriers pursuant to sections 379.942 and 379.943.

3. The committee shall recommend benefit levels, cost sharing levels, exclusions and limitations for the basic health benefit plan and the standard health benefit plan. The committee

shall also design a basic health benefit plan and a standard health benefit plan which contain benefit and cost sharing levels that are consistent with the basic method of operation and the benefit plans of health maintenance organizations, including any restrictions imposed by federal law.

(1) The plans recommended by the committee shall include cost containment features such as:

(a) Utilization review of health care services, including review of medical necessity of hospital and physician services;

(b) Case management;

(c) Selective contracting with hospitals, physicians and other health care providers;

(d) Reasonable benefit differentials applicable to providers that participate or do not participate in arrangements using restricted network provisions; and

(e) Other managed care provisions.

(2) The committee shall submit the health benefit plans described in this subsection to the director for approval within one hundred eighty days after the appointment of the committee.**]**

SECTION B. EFFECTIVE DATE. — The provisions of sections 143.782, 143.790, 313.321, 354.536, 376.392, 376.426, 376.450, 376.451, 376.452, 376.453, 376.454, 376.776, 376.960, 376.964, 376.966, 376.986, 376.987, 376.989, 376.1500, 376.1502, 376.1504, 376.1506, 376.1508, 376.1510, 376.1512, 376.1514, 376.1516, 376.1518, 376.1520, 376.1522, 376.1524, 376.1528, 376.1530, 376.1532, 379.930, 379.936, 379.938, 379.940, and 379.952 of this act shall become effective January 1, 2008.

Approved June 1, 2007

HB 820 [SS HCS HB 820]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the Director of the Department of Corrections to select a death penalty execution team

AN ACT to repeal section 546.720, RSMo, and to enact in lieu thereof one new section relating to administration of the death penalty, with penalty provisions.

SECTION

A. Enacting clause.
546.720. Death penalty — manner of execution — execution team to be selected, members, confidentiality.

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

SECTION A. ENACTING CLAUSE. — Section 546.720, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 546.720, to read as follows:

546.720. DEATH PENALTY — MANNER OF EXECUTION — EXECUTION TEAM TO BE SELECTED, MEMBERS, CONFIDENTIALITY. — 1. The manner of inflicting the punishment of death shall be by the administration of lethal gas or by means of the administration of lethal injection. And for such purpose the director of the department of corrections is hereby authorized and directed to provide a suitable and efficient room or place, enclosed from public view, within the walls of a correctional facility of the department of corrections, and the necessary appliances for carrying into execution the death penalty by means of the administration of lethal gas or by means of the administration of lethal injection.

2. The director of the department of corrections shall select an execution team which shall consist of those persons who administer lethal gas or lethal chemicals and those persons, such as medical personnel, who provide direct support for the administration of lethal gas or lethal chemicals. The identities of members of the execution team, as defined in the execution protocol of the department of corrections, shall be kept confidential. Notwithstanding any provision of law to the contrary, any portion of a record that could identify a person as being a current or former member of an execution team shall be privileged and shall not be subject to discovery, subpoena, or other means of legal compulsion for disclosure to any person or entity, the remainder of such record shall not be privileged or closed unless protected from disclosure by law. The section of an execution protocol that directly relates to the administration of lethal gas or lethal chemicals is an open record, the remainder of any execution protocol of the department of corrections is a closed record.

3. A person may not, without the approval of the director of the department of corrections, knowingly disclose the identity of a current or former member of an execution team or disclose a record knowing that it could identify a person as being a current or former member of an execution team. Any person whose identity is disclosed in violation of this section shall:

(1) Have a civil cause of action against a person who violates this section;

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

(a) Actual damages; and

(b) Punitive damages on a showing of a willful violation of this section.

4. Notwithstanding any provision of law to the contrary, if a member of the execution team is licensed by a board or department, the licensing board or department shall not censure, reprimand, suspend, revoke, or take any other disciplinary action against the person's license because of his or her participation in a lawful execution. All members of the execution team are entitled to coverage under the state legal expense fund established by section 105.711, RSMo, for conduct of such execution team member 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 under chapter 287, RSMo.

Approved June 30, 2007

HB 948 [HCS HB 948]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding newborn screenings and the Metabolic Formula Distribution Program

AN ACT to repeal sections 191.300, 191.317, and 191.331, RSMo, and to enact in lieu thereof three new sections relating to genetic and metabolic disease programs.

SECTION

A. Enacting clause.
191.300. Definitions.
191.317. Confidentiality of all tests and personal information — exceptions — retention of specimens, procedure.
191.331. Infants to be tested for metabolic and genetic diseases — reports — exceptions — refusal to test — fee for screening test, department may impose by rule, use of fees — formula provided by department, when — assistance available, when.

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

SECTION A. ENACTING CLAUSE. — Sections 191.300, 191.317, and 191.331, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 191.300, 191.317, and 191.331, to read as follows:

191.300. DEFINITIONS. — As used in sections 191.300 to 191.380, the following terms mean:

(1) "Committee", the Missouri genetic disease advisory committee;

(2) "Cystic fibrosis", a serious lung problem of children; an inherited disorder which produces chronic involvement of the respiratory and digestive systems;

(3) "Department", the department of health and senior services;

(4) "Director", the director of the state department of health and senior services;

(5) "Genetic counseling", the provision and interpretation of medical information based on expanding knowledge of human genetics;

(6) "Genetic disorders", abnormalities of structure, function, or body metabolism which may be inherited or may result from damage to the fetus;

(7) "Genetic screening", the search through testing for persons with genetic disorders;

(8) **"Health care professional", a physician or other health care practitioner licensed, accredited, or certified by the state of Missouri to perform specified health services;**

(9) "Health care services", services for the diagnosis, treatment, cure, or relief of a health condition, illness, injury, or disease;

(10) "Hemophilia", a bleeding tendency resulting from a genetically determined deficiency factor in the blood;

[(9)**]** **(11)** "Outreach clinics", medical clinics which provide genetic diagnosis and counseling at sites away from the tertiary genetic centers;

[(10)**]** **(12)** "Program", the genetic program authorized by the provisions of sections 191.300 to 191.331, 191.340, and 191.365 to 191.380;

[(11)**]** **(13)** "Sickle cell anemia", a blood disease characterized by the presence of crescent shaped or sickle shaped erythrocytes in peripheral blood, excessive hemolysis, and active hematopoiesis, resulting from a genetic defect;

[(12)**]** **(14)** "Sickle cell trait", the healthy state wherein one carries the gene for sickle cell and could possibly pass that gene to his offspring;

[(13)**]** **(15)** "Tertiary genetic centers", permanent genetic divisions that provide comprehensive diagnostic treatment and counseling services.

191.317. CONFIDENTIALITY OF ALL TESTS AND PERSONAL INFORMATION — EXCEPTIONS — RETENTION OF SPECIMENS, PROCEDURE. — **1.** All testing results and personal information obtained from any individual, or from specimens from any individual, shall be held confidential and be considered a confidential medical record, except for such information as the individual, parent or guardian consents to be released; but the individual must first be fully informed of the scope of the information requests to be released, of the risks, benefits and purposes for such release, and of the identity of those to whom the information will be released. Statistical data compiled without reference to the identity of any individual shall not be declared confidential. **Notwithstanding any other provision of law to the contrary, the department may release the results of newborn screening tests to a child's health care professional.**

2. The specimen shall be retained for five years after initial submission to the department. After five years, the specimen shall be destroyed. Unless otherwise directed under this section, a biological specimen may be released for purposes of anonymous scientific study. At the time of collection, the parent or legal guardian of the child from whom a biological specimen was obtained may direct the department to:

(1) Return a biological specimen that remains after all screening tests have been performed;

(2) Destroy a biological specimen in a scientifically acceptable manner after all screening tests required under section 191.331 or rule promulgated thereunder have been performed; or

(3) Store a biological specimen but not release the biological specimen for anonymous scientific study.

3. A biological specimen released for anonymous study under this section shall not contain information that may be used to determine the identity of the donor.

191.331. INFANTS TO BE TESTED FOR METABOLIC AND GENETIC DISEASES — REPORTS — EXCEPTIONS — REFUSAL TO TEST — FEE FOR SCREENING TEST, DEPARTMENT MAY IMPOSE BY RULE, USE OF FEES — FORMULA PROVIDED BY DEPARTMENT, WHEN — ASSISTANCE AVAILABLE, WHEN. — 1. Every infant who is born in this state shall be tested for phenylketonuria and such other metabolic or genetic diseases as are prescribed by the department. The test used by the department shall be dictated by accepted medical practice and such tests shall be of the types approved by the department. All newborn screening tests required by the department shall be performed by the department of health and senior services laboratories. The attending physician, certified nurse midwife, public health facility, ambulatory surgical center or hospital shall assure that appropriate specimens are collected and submitted to the department of health and senior services laboratories.

2. All physicians, certified nurse midwives, public health nurses and administrators of ambulatory surgical centers or hospitals shall report to the department all diagnosed cases of phenylketonuria and other metabolic or genetic diseases as designated by the department. The department shall prescribe and furnish all necessary reporting forms.

3. The department shall develop and institute educational programs concerning phenylketonuria and other metabolic and genetic diseases and assist parents, physicians, hospitals and public health nurses in the management and basic treatment of these diseases.

4. The provisions of this section shall not apply if the parents of such child object to the tests or examinations provided in this section on the grounds that such tests or examinations conflict with their religious tenets and practices.

5. As provided in subsection 4 of this section, the parents of any child who fail to have such test or examination administered after notice of the requirement for such test or examination shall be required to document in writing such refusal. All physicians, certified nurse midwives, public health nurses and administrators of ambulatory surgical centers or hospitals shall provide to the parents or guardians a written packet of educational information developed and supplied by the department of health and senior services describing the type of specimen, how it is obtained, the nature of diseases being screened, and the consequences of treatment and nontreatment. The attending physician, certified nurse midwife, public health facility, ambulatory surgical center or hospital shall obtain the written refusal and make such refusal part of the medical record of the infant.

6. Notwithstanding the provisions of section 192.015, RSMo, to the contrary, the department may, by rule, annually determine and impose a reasonable fee for each newborn screening test made in any of its laboratories. The department may collect the fee from any entity or individual described in subsection 1 of this section in a form and manner established by the department. Such fee shall be considered as a cost payable to such entity by a health care third party payer, including, but not limited to, a health insurer operating pursuant to chapter 376, RSMo, a domestic health services corporation or health maintenance organization operating pursuant to chapter 354, RSMo, and a governmental or entitlement program operating pursuant to state law. Such fee shall not be considered as part of the internal laboratory costs of the persons and entities described in subsection 1 of this section by such health care third party payers. No individual shall be denied screening because of inability to pay. Such fees shall be deposited in a separate account in the public health services fund created in section 192.900, RSMo, and funds in such account shall be used for the support of the newborn screening

program and activities related to the screening, diagnosis, and treatment, including special dietary products, of persons with metabolic and genetic diseases; and follow-up activities that ensure that diagnostic evaluation, treatment and management is available and accessible once an at-risk family is identified through initial screening; and for no other purpose. These programs may include education in these areas and the development of new programs related to these diseases.

7. Subject to appropriations provided for formula for the treatment of inherited diseases of amino acids and organic acids, the department shall provide such formula to persons with inherited diseases of amino acids and organic acids subject to the conditions described in this subsection. State assistance pursuant to this subsection shall be available to an applicant only after the applicant has shown that the applicant has exhausted all benefits from third party payers, including, but not limited to, health insurers, domestic health services corporations, health maintenance organizations, Medicare, Medicaid and other government assistance programs. **[**The department shall establish an income-based means test to be used to determine eligibility for the formula made available pursuant to this section.**]**

8. Assistance under subsection 7 of this section shall be provided to the following:

(1) Applicants ages birth to five years old meeting the qualifications under subsection 7 of this section;

(2) Applicants between the ages of six to eighteen meeting the qualifications under subsection 7 of this section and whose family income is below three hundred percent of the federal poverty level;

(3) Applicants between the ages of six to eighteen meeting the qualifications under subsection 7 of this section and whose family income is at three hundred percent of the federal poverty level or above. For these applicants, the department shall establish a sliding scale of fees and monthly premiums to be paid in order to receive assistance under subsection 7 of this section; and

(4) Applicants age nineteen and above meeting the qualifications under subsection 7 of this section and who are eligible under an income-based means test established by the department to determine eligibility for the assistance under subsection 7 of this section.

9. The department shall have authority over the use, retention, and disposal of biological specimens and all related information collected in connection with newborn screening tests conducted under subsection 1 of this section. The use of such specimens and related information shall only be made for public health purposes and shall comply with all applicable provisions of federal law. The department may charge a reasonable fee for the use of such specimens for public health research and preparing and supplying specimens for research proposals approved by the department.

Approved July 13, 2007

HB 952 [SS SCS HCS HB 952 & 674]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding emergency preparedness plans, fire alarms, and sprinkler systems in long-term care facilities

AN ACT to repeal sections 198.073, 198.076, 198.079, 198.086, and 320.202, RSMo, and to enact in lieu thereof seven new sections relating to protection of vulnerable persons in long-term care facilities.

SECTION

A. Enacting clause.

198.073. Persons eligible for care in residential care facility or assisted living facility — assisted living facility licenses granted, requirements — facility admission, requirements, disclosures — rulemaking authority.
198.074. Sprinkler system requirements — fire alarm system requirements.
198.075. Fire safety standards loan fund created, use of moneys.
198.076. Department of social services to establish standards and regulations for residential care facilities and assisted living facilities.
198.079. Department to establish standards and regulations for intermediate care and skilled nursing facilities.
198.086. Demonstration project, Alzheimer's licensure category — department duties — accommodations for family members.
320.202. Division of fire safety, created — duties of division and fire marshal — rulemaking authority.

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

SECTION A. ENACTING CLAUSE. — Sections 198.073, 198.076, 198.079, 198.086, and 320.202, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 198.073, 198.074, 198.075, 198.076, 198.079, 198.086, and 320.202, to read as follows:

198.073. PERSONS ELIGIBLE FOR CARE IN RESIDENTIAL CARE FACILITY OR ASSISTED LIVING FACILITY — ASSISTED LIVING FACILITY LICENSES GRANTED, REQUIREMENTS — FACILITY ADMISSION, REQUIREMENTS, DISCLOSURES — RULEMAKING AUTHORITY. — 1. A residential care facility shall admit or retain only those persons who are capable mentally and physically of negotiating a normal path to safety using assistive devices or aids when necessary, and who may need assisted personal care within the limitations of such facilities, and who do not require hospitalization or skilled nursing care.

2. Notwithstanding the provisions of subsection 1 of this section, those persons previously qualified for residence who may have a temporary period of incapacity due to illness, surgery, or injury, which period does not exceed forty-five days, may be allowed to remain in a residential care facility or assisted living facility if approved by a physician.

3. Any facility licensed as a residential care facility II on August 27, 2006, shall be granted a license as an assisted living facility, as defined in section 198.006, on August 28, 2006, regardless of the laws, rules, and regulations for licensure as an assisted living facility as long as such facility continues to meet all laws, rules, and regulations that were in place on August 27, 2006, for a residential care facility II. At such time that the average total reimbursement, not including residents' cost-of-living increases in their benefits from the Social Security Administration after August 28, 2006, for the care of persons eligible for Medicaid in an assisted living facility is equal to or exceeds forty-one dollars per day, all facilities with a license as an assisted living facility shall meet all laws, rules, and regulations for licensure as an assisted living facility. Nothing in this section shall be construed to allow any facility that has not met the requirements of subsections 4 and 6 of this section to care for any individual with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility.

4. Any facility licensed as an assisted living facility, as defined in section 198.006, except for facilities licensed under subsection 3 of this section, may admit or retain an individual for residency in an assisted living facility only if the individual does not require hospitalization or skilled nursing placement, and only if the facility:

(1) Provides for or coordinates oversight and services to meet the needs of the resident as documented in a written contract signed by the resident, or legal representative of the resident;

(2) Has twenty-four-hour staff appropriate in numbers and with appropriate skills to provide such services;

(3) Has a written plan for the protection of all residents in the event of a disaster, including keeping residents in place, evacuating residents to areas of refuge, evacuating residents from the building if necessary, or other methods of protection based on the disaster and the individual building design;

(4) Completes a pre-move-in screening with participation of the prospective resident;

(5) Completes for each resident a community-based assessment, as defined in subdivision (7) of section 198.006:

(a) Upon admission;

(b) At least semiannually; and

(c) Whenever a significant change has occurred in the resident's condition which may require a change in services;

(6) Based on the assessment in subsection 7 of this section and subdivision (5) of this subsection, develops an individualized service plan in partnership with the resident, or legal representative of the resident, that outlines the needs and preferences of the resident. The individualized service plan will be reviewed with the resident, or legal representative of the resident, at least annually, or when there is a significant change in the resident's condition which may require a change in services. The signatures of an authorized representative of the facility and the resident, or the resident's legal representative, shall be contained on the individualized service plan to acknowledge that the service plan has been reviewed and understood by the resident or legal representative;

(7) Makes available and implements self-care, productive and leisure activity programs which maximize and encourage the resident's optimal functional ability;

(8) Ensures that the residence does not accept or retain a resident who:

(a) Has exhibited behaviors that present a reasonable likelihood of serious harm to himself or herself or others;

(b) Requires physical restraint;

(c) Requires chemical restraint. As used in this paragraph, the following terms mean:

a. "Chemical restraint", a psychopharmacologic drug that is used for discipline or convenience and not required to treat medical symptoms;

b. "Convenience", any action taken by the facility to control resident behavior or maintain residents with a lesser amount of effort by the facility and not in the resident's best interest;

c. "Discipline", any action taken by the facility for the purpose of punishing or penalizing residents;

(d) Requires skilled nursing services as defined in subdivision (23) of section 198.006 for which the facility is not licensed or able to provide;

(e) Requires more than one person to simultaneously physically assist the resident with any activity of daily living, with the exception of bathing and transferring;

(f) Is bed-bound or similarly immobilized due to a debilitating or chronic condition; and

(9) Develops and implements a plan to protect the rights, privacy, and safety of all residents and to protect against the financial exploitation of all residents;

(10) Complies with the training requirements of subsection 8 of section 660.050, RSMo.

5. Exceptions to paragraphs (d) to (f) of subdivision (8) of subsection 4 of this section shall be made for residents on hospice, provided the resident, designated representative, or both, and the assisted living provider, physician, and licensed hospice provider all agree that such program of care is appropriate for the resident.

6. If an assisted living facility accepts or retains any individual with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance, the facility shall:

(1) Have sufficient staff present and awake twenty-four hours a day to assist in the evacuation;

(2) Include an individualized evacuation plan in the service plan of the resident; and

(3) **[**Be equipped with an automatic sprinkler system in compliance with National Fire Protection Association Code 13 or National Fire Protection Association Code 13R, and an automated fire door system and smoke alarms in compliance with 13-3.4 of the 1997 Life Safety Codes for Existing Health Care Occupancy, or for multilevel facilities, be equipped with an automatic sprinkler system in compliance with National Fire Protection Association Code 13 and each floor shall be divided into at least two smoke sections and fire alarms in compliance with 13-3.4 of the 1997 Life Safety Codes for Existing Health Care Occupancy;

(4)**]** Take necessary measures to provide residents with the opportunity to explore the facility and, if appropriate, its grounds; and

[(5)**] (4)** Use a personal electronic monitoring device for any resident whose physician recommends the use of such device.

7. An individual admitted or readmitted to the facility shall have an admission physical examination by a licensed physician. Documentation should be obtained prior to admission but shall be on file not later than ten days after admission and shall contain information regarding the individual's current medical status and any special orders or procedures that should be followed. If the individual is admitted directly from a hospital or another long-term care facility and is accompanied on admission by a report that reflects his or her current medical status, an admission physical shall not be required.

8. Facilities licensed as an assisted living facility shall disclose to a prospective resident, or legal representative of the resident, information regarding the services the facility is able to provide or coordinate, the costs of such services to the resident, and the resident conditions that will require discharge or transfer, including the provisions of subdivision (8) of subsection 4 of this section.

9. After January 1, 2008, no entity shall hold itself out as an assisted living facility or advertise itself as an assisted living facility without obtaining a license from the department to operate as an assisted living facility. Any residential care facility II licensed under this chapter that does not use the term assisted living in the name of its licensed facility on or before May 1, 2006, shall be prohibited from using such term after August 28, 2006, unless such facility meets the requirements for an assisted living facility in subsection 4 of this section. **Any facility licensed as an intermediate care facility prior to August 28, 2006, that provides the services of an assisted living facility, as described in paragraphs (a), (b), and (c) of subdivision (6) of section 198.006, utilizing the social model of care, may advertise itself as an assisted living facility without obtaining a license from the department to operate as an assisted living facility.**

10. **[**For assisted living facilities built after August 28, 2006, or which have major renovations after August 27, 2006, such single-level assisted living facilities or the major renovation portion shall be equipped with an automatic sprinkler system in compliance with National Fire Protection Association Code 13 or 13R of the 1997 Life Safety Codes for Existing Health Care Occupancy, or for such multilevel assisted living facilities or the major renovation portion shall be equipped with an automatic sprinkler system in compliance with National Fire Protection Association Code 13 and each floor shall be divided into two smoke sections and fire alarms in compliance with 13-3.4 of the 1997 Life Safety Codes for Existing Health Care Occupancy. Existing facilities seeking to be licensed as assisted living facilities shall meet the fire safety standards for residential care facilities II in effect on August 28, 2006, unless such facilities seek to admit one or more individuals with physical, cognitive, or other impairments that prevent the individuals from safely evacuating the facility with minimal assistance, in which case such facilities shall comply with subsection 6 of this section.

11.**]** The department of health and senior services shall promulgate rules to ensure compliance with 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, 2006, shall be invalid and void.

198.074. SPRINKLER SYSTEM REQUIREMENTS — FIRE ALARM SYSTEM REQUIREMENTS. — 1. Effective August 28, 2007, all new facilities licensed on or after August 28, 2007, or

any facilities completing a major renovation to the facility on or after August 28, 2007, as defined and approved by the department, and which are licensed under this chapter shall install and maintain an approved sprinkler system in accordance with National Fire Protection Association (NFPA) 13.

2. Facilities that were initially licensed and had an approved sprinkler system prior to August 28, 2007, shall continue to meet all laws, rules, and regulations for testing, inspection and maintenance of the sprinkler system that were in effect for such facilities on August 27, 2007.

3. Multi-level assisted living facilities that accept or retain any individual with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance shall install and maintain an approved sprinkler system in accordance with NFPA 13. Single-story assisted living facilities that accept or retain any individual with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance shall install and maintain an approved sprinkler system in accordance with NFPA 13R.

4. All residential care and assisted living facilities with more than twenty residents not included in subsection 3 of this section, which are initially licensed under this chapter prior to August 28, 2007, and that do not have installed an approved sprinkler system in accordance with NFPA 13R prior to August 28, 2007, shall install and maintain an approved sprinkler system in accordance with NFPA 13R by December 31, 2012, unless the facility meets the safety requirements of Chapter 33 of existing residential board and care occupancies of NFPA 101 life safety code.

5. All skilled nursing and intermediate care facilities not required prior to August 28, 2007, to install and maintain an approved sprinkler system shall install and maintain an approved sprinkler system in accordance with NFPA 13 by December 31, 2012, unless the facility receives an exemption from the department and presents evidence in writing from a certified sprinkler system representative or licensed engineer that the facility is unable to install an approved National Fire Protection Association 13 system due to the unavailability of water supply requirements associated with this system or the facility meets the safety requirements of Chapter 33 of existing residential board and care occupancies of NFPA 101 life safety code.

6. Facilities that take a substantial step, as specified in subsection 7 of this section, to install an approved NFPA 13R system prior to December 31, 2012, may apply to the department for a loan in accordance with section 198.075, to install such system. However, such loan shall not be available if by December 31, 2009, the average total reimbursement for the care of persons eligible for Medicaid public assistance in an assisted living facility and residential care facility is equal to or exceeds fifty-two dollars per day. The average total reimbursement includes room, board, and care delivered by the facility, but shall not include payments to the facility for care or services not provided by the facility. If a facility under this subsection does not have an approved sprinkler system installed by December 31, 2012, such facility shall be required to install and maintain an approved sprinkler system in accordance with NFPA 13 by December 31, 2013. Such loans received under this subsection and in accordance with section 198.075, shall be paid in full as follows:

(1) Ten years for those facilities approved for the loan and whose average total reimbursement rate for the care of persons eligible for Medicaid public assistance is equal to forty-eight and no more than forty-nine dollars per day;

(2) Eight years for those facilities approved for the loan and whose average total reimbursement rate for the care of persons eligible for Medicaid public assistance is greater than forty-nine and no more than fifty-two dollars per day; or

(3) Five years for those facilities approved for the loan and whose average total reimbursement rate for the care of persons eligible for Medicaid public assistance is greater than fifty-two dollars per day.

(4) No payments or interest shall be due until the average total reimbursement rate for the care of persons eligible for Medicaid public assistance is equal to or greater than forty-eight dollars.

7. (1) All facilities licensed under this chapter shall be equipped with a complete fire alarm system in compliance with NFPA 101, Life Safety Code for Detection, Alarm, and Communication Systems as referenced in NFPA 72, or shall maintain a system that was approved by the department when such facility was constructed so long as such system is a complete fire alarm system. A complete fire alarm system shall include, but not be limited to, interconnected smoke detectors throughout the facility, automatic transmission to the fire department, dispatching agency, or central monitoring company, manual pull stations at each required exit and attendant's station, heat detectors, and audible and visual alarm indicators.

(2) In addition, each floor accessed by residents shall be divided into at least two smoke sections by one-hour rated smoke partitions. No smoke section shall exceed one hundred fifty feet in length. If neither the length nor the width of the floor exceeds seventy-five feet, no smoke-stop partition shall be required. Facilities with a complete fire alarm system and smoke sections meeting the requirements of this subsection prior to August 28, 2007, shall continue to meet such requirements. Facilities initially licensed on or after August 28, 2007, shall comply with such requirements beginning August 28, 2007, or on the effective date of licensure.

(3) Except as otherwise provided in this subsection, the requirements for complete fire alarm systems and smoke sections shall be enforceable on December 31, 2008.

8. The requirements of this section shall be construed to supersede the provisions of section 198.058 relating to the exemption of facilities from construction standards.

9. Fire safety inspections of facilities licensed under this chapter for compliance with this section shall be conducted annually by the state fire marshal if such inspections are not available to be conducted by local fire protection districts or fire departments. The provisions of this section shall be enforced by the state fire marshal or by the local fire protection district or fire department, depending on which entity conducted the inspection.

10. By July 1, 2008, all facilities licensed under this chapter shall submit a plan for compliance with the provisions of this section to the state fire marshal.

198.075. FIRE SAFETY STANDARDS LOAN FUND CREATED, USE OF MONEYS. — 1. There is hereby created in the state treasury the "Fire Safety Standards Loan Fund", for implementing the provisions of subsection 3 of section 198.074. Moneys deposited in the fund shall be considered state funds under article IV, section 15 of the Missouri constitution. The state treasurer shall be custodian of the fund and may disburse moneys from the fund in accordance with sections 30.170 and 30.180, RSMo. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. Qualifying facilities shall make an application to the department of health and senior services upon forms provided by the department. Upon receipt of an application for a loan, the department shall review the application and advise the governor before state funds are allocated for a loan. For purposes of this section, a "qualifying facility" shall mean a facility licensed under this chapter that is in substantial compliance. "Substantial compliance" shall mean a facility that has no uncorrected deficiencies and is in compliance with department of health and senior services rules and regulations governing such facility.

3. The fund shall be a loan of which the interest rate shall not exceed two and one half percent.

4. The fund shall be administered by the department of health and senior services.

198.076. DEPARTMENT OF SOCIAL SERVICES TO ESTABLISH STANDARDS AND REGULATIONS FOR RESIDENTIAL CARE FACILITIES AND ASSISTED LIVING FACILITIES. — The department shall promulgate reasonable standards and regulations for all residential care facilities and all assisted living facilities. The standards and regulations shall take into account the level of care provided and the number and type of residents served by the facility to insure maximum flexibility. These standards and regulations shall relate to:

(1) The number and qualifications of employed and contract personnel having responsibility for any of the services provided for residents;

(2) The equipment, facilities, services and supplies essential to the health and welfare of the residents;

(3) Fire safety **[**and**]** **, including resident smoking in designated areas only, unannounced fire drills, fire safety training, and notification to the department of fires and fire watches;**

(4) Sanitation in the facility;

[(4)**]** **(5)** Diet, which shall be based on good nutritional practice;

[(5)**]** **(6)** Personal funds and property of residents;

[(6)**]** **(7)** Resident rights and resident grievance procedures appropriate to the levels of care, size and type of facility;

[(7)**]** **(8)** Record keeping appropriate to the levels of care, size and type of facility;

[(8)**]** **(9)** Construction of the facility;

[(9)**]** **(10)** Care of residents.

198.079. DEPARTMENT TO ESTABLISH STANDARDS AND REGULATIONS FOR INTERMEDIATE CARE AND SKILLED NURSING FACILITIES. — The department shall promulgate reasonable standards and regulations for all intermediate care facilities and all skilled nursing facilities. The standards and regulations shall take into account the level of care provided and the type of residents served by the facility. These standards and regulations shall relate to:

(1) The number and qualifications of employed and contract personnel having responsibility for any of the services provided for residents;

(2) The equipment, facilities, services and supplies essential to the health and welfare of the residents;

(3) Fire safety **[**and**]** **, including resident smoking in designated areas only, unannounced fire drills, fire safety training, and notification to the department of fires and fire watches;**

(4) Sanitation in the facility;

[(4)**]** **(5)** Diet, which shall be related to the needs of each resident and based on good nutritional practice and on recommendations which may be made by the physician attending the resident;

[(5)**]** **(6)** Personal funds and property of residents;

[(6)**]** **(7)** Resident rights and resident grievance procedures;

[(7)**]** **(8)** Record keeping, including clinical and personnel records;

[(8)**]** **(9)** The construction of the facility, including plumbing, heating, ventilation and other housing conditions which shall insure the health, safety and comfort of residents and protection from fire hazards;

[(9)**]** **(10)** Care of residents;

[(10)**]** **(11)** Social and rehabilitative service;

[(11)**]** **(12)** Staff training and continuing education.

198.086. DEMONSTRATION PROJECT, ALZHEIMER'S LICENSURE CATEGORY — DEPARTMENT DUTIES — ACCOMMODATIONS FOR FAMILY MEMBERS. — 1. The department of health and senior services shall develop and implement a demonstration project designed to

establish a licensure category for health care facilities that wish to provide treatment to persons with Alzheimer's disease or Alzheimer's-related dementia. The division shall also:

(1) Inform potential providers of the demonstration project and seek letters of intent;

(2) Review letters of intent and select provider organizations to participate in the demonstration project. Ten such organizations may develop such projects using an existing license and additional organizations shall be newly licensed facilities with no more than thirty beds per project. One demonstration project shall be at a stand-alone facility of no more than one hundred twenty beds designed and operated exclusively for the care of residents with Alzheimer's disease or dementia within a county of the first classification with a charter form of government with a population over nine hundred thousand. A total of not more than three hundred beds may be newly licensed through the demonstration projects. All projects shall maintain their pilot status until a complete evaluation is completed by the division of aging, in conjunction with a qualified Missouri school or university, and a written determination is made from such evaluation that the pilot project is successful;

(3) Monitor the participants' compliance with the criteria established in this section;

(4) Recommend legislation regarding the licensure of dementia-specific residential care based on the results of the demonstration project; and

(5) Submit a report regarding the division's activities and recommendations for administrative or legislative action on or before November fifteenth of each year to the governor, the president pro tem of the senate and the speaker of the house of representatives.

2. The director of the division **[**of aging**]** shall:

(1) Develop a reimbursement methodology to reasonably and adequately compensate the pilot projects for the costs of operation of the project, and require the filing of annual cost reports by each participating facility which shall include, but not be limited to, the cost equivalent of unpaid volunteer or donated labor;

(2) Process the license applications of project participants;

(3) Monitor each participant to assure its compliance with the requirements and that the life, health and safety of residents are assured;

(4) Require each participating facility to complete a minimum data set form for each resident occupying a pilot bed;

(5) Require the division of aging to assign a single team of the same surveyors to inspect and survey all participating facilities at least twice a year for the entire period of the project; and

(6) Submit to the president pro tem of the senate and speaker of the house of representatives copies of any statements of deficiencies, plans of correction and complaint investigation reports applying to project participants.

3. Project participants shall:

(1) Be licensed by the division **[**of aging**]**;

(2) Provide care only to persons who have been diagnosed with Alzheimer's disease or Alzheimer's-related dementia;

(3) Have buildings and furnishings that are designed to provide for the resident's safety. Facilities shall have indoor and outdoor activity areas, and electronically controlled exits from the buildings and grounds to allow residents the ability to explore while preventing them from exiting the facility's grounds unattended;

(4) Be staffed twenty-four hours a day by the appropriate number and type of personnel necessary for the proper care of residents and upkeep of the facility;

(5) Conduct special staff training relating to the needs, care and safety of persons with Alzheimer's disease or Alzheimer's-related dementia within the first thirty days of employment;

(6) Utilize personal electronic monitoring devices for any resident whose physician recommends use of such device;

(7) Permit the resident's physician, in consultation with the family members or health care advocates of the resident, to determine whether the facility meets the needs of the resident; **and**

(8) **[**Be equipped with an automatic sprinkler system, in compliance with the National Fire Protection Association Code 13 or National Fire Protection Association Code 13R, and an automated fire alarm system and smoke barriers in compliance with the 1997 Life Safety Codes for Existing Health Care Occupancy; and

(9)**]** Implement a social model for the residential environment rather than an institutional medical model.

4. For purposes of this section, "health care facilities for persons with Alzheimer's disease or Alzheimer's-related dementia" means facilities that are specifically designed and operated to provide elderly individuals who have chronic confusion or dementia illness, or both, with a safe, structured but flexible environment that encourages physical activity through a well-developed recreational and aging-in-place and activity program. Such program shall continually strive to promote the highest practicable physical and mental abilities and functioning of each resident.

5. Nothing in this section shall be construed to prohibit project participants from accommodating a family member or other caregiver from residing with the resident in accordance with all life, health, and safety standards of the facility.

320.202. DIVISION OF FIRE SAFETY, CREATED — DUTIES OF DIVISION AND FIRE MARSHAL — RULEMAKING AUTHORITY. — 1. There is hereby established within the department of public safety a "Division of Fire Safety", which shall have as its chief executive officer the fire marshal appointed under section 320.205. The fire marshal and the division shall be responsible for:

(1) The voluntary training of firefighters, investigators, inspectors, and public or private employees or volunteers in the field of emergency response, rescue, fire prevention or preparedness;

(2) Establishing and maintaining a statewide reporting system, which shall, as a minimum, include the records required by section 320.235 and a record of all fires occurring in Missouri showing:

(a) The name of all owners of personal and real property affected by the fire;

(b) The name of each occupant of each building in which a fire occurred;

(c) The total amount of insurance carried by, the total amount of insurance collected by, and the total amount of loss to each owner of property affected by the fire; and

(d) All the facts, statistics and circumstances, including, but not limited to, the origin of the fire, which are or may be determined by any investigation conducted by the division or any local firefighting agency under the laws of this state. All records maintained under this subdivision shall be open to public inspections during all normal business hours of the division;

(3) Conducting all investigations of fires mandated by sections 320.200 to 320.270;

(4) Conducting all fire inspections required of any private premises in order for any license relating to such private premises to be issued under any licensing law of this state, except those organizations and institutions licensed pursuant to **[**chapters 197 and 198**]** **chapter 197**, RSMo;

(5) Establishing and maintaining a voluntary training and certification program based upon nationally recognized standards. A certification testing fee and recertification fee shall be established by promulgated rules and regulations by the state fire marshal under the provisions of section 536.024, RSMo. Fees collected shall be deposited into the general revenue fund.

2. The state fire marshal shall exercise and perform all powers and duties necessary to carry out the responsibilities imposed by subsection 1 of this section, including, but not limited to, the power to contract with any person, firm, corporation, state agency, or political subdivision for services necessary to accomplish any of the responsibilities imposed by subsection 1 of this section.

3. The state fire marshal shall have the authority to promulgate rules and regulations under the provisions of section 536.024, RSMo, to carry out the provisions of this section.

Approved June 1, 2007

HB 1055 [HCS HB 1055]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding sexual education instruction in public schools and establishes public awareness and services for alternatives to abortion programs

AN ACT to repeal sections 170.015, 188.015, 188.075, and 197.200, RSMo, and to enact in lieu thereof six new sections relating to abortions, with penalty provisions.

SECTION

A. Enacting clause.
170.015. Human sexuality and sexually transmitted diseases, instruction in, requirements — policies, school boards' duties — certain course materials on human sexuality prohibited, when.
188.015. Definitions.
188.075. Violation of sections 188.010 to 188.085 a class A misdemeanor — affirmative defense.
188.325. Program established, services provided — matching moneys to be sought — moneys not to be used for abortion or abortion services.
188.335. Program established, purpose — matching moneys to be sought — moneys not to be used for abortion or abortion services.
197.200. Definitions.

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

SECTION A. ENACTING CLAUSE. — Sections 170.015, 188.015, 188.075, and 197.200, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 170.015, 188.015, 188.075, 188.325, 188.335, and 197.200, to read as follows:

170.015. HUMAN SEXUALITY AND SEXUALLY TRANSMITTED DISEASES, INSTRUCTION IN, REQUIREMENTS — POLICIES, SCHOOL BOARDS' DUTIES — CERTAIN COURSE MATERIALS ON HUMAN SEXUALITY PROHIBITED, WHEN. — 1. Any course materials and instruction relating to human sexuality and sexually transmitted diseases shall be medically and factually accurate and shall:

(1) Present abstinence from sexual activity as the preferred choice of behavior in relation to all sexual activity for unmarried pupils because it is the only method that is one hundred percent effective in preventing pregnancy, sexually transmitted diseases and the emotional trauma associated with adolescent sexual activity, and advise students that teenage sexual activity places them at a higher risk of dropping out of school because of the consequences of sexually transmitted diseases and unplanned pregnancy;

(2) Stress that sexually transmitted diseases are serious, possible, health hazards of sexual activity. Pupils shall be provided with the latest medical information regarding exposure to human immunodeficiency virus, acquired immune deficiency syndrome (AIDS), human papilloma virus, hepatitis and other sexually transmitted diseases;

(3) Present students with the latest medically factual information regarding both the possible side effects and health benefits of all forms of contraception, including the success and failure rates for the prevention of pregnancy and sexually transmitted diseases; **or shall present students with information on contraceptives and pregnancy in a manner consistent with the provisions of the federal abstinence education law, 42 U.S.C. Section 710;**

(4) Include a discussion of the possible emotional and psychological consequences of preadolescent and adolescent sexual activity and the consequences of adolescent pregnancy, as well as the advantages of adoption, including the adoption of special needs children, and the processes involved in making an adoption plan;

(5) Teach skills of conflict management, personal responsibility and positive self-esteem through discussion and role-playing at appropriate grade levels to emphasize that the pupil has

the power to control personal behavior. Pupils shall be encouraged to base their actions on reasoning, self-discipline, sense of responsibility, self-control, and ethical considerations, such as respect for one's self and others. Pupils shall be taught not to make unwanted physical and verbal sexual advances or otherwise exploit another person. Pupils shall be taught to resist unwanted sexual advances and other negative peer pressure;

(6) Advise pupils of the laws pertaining to their financial responsibility to children born in and out of wedlock and advise pupils of the provisions of chapter 566, RSMo, pertaining to statutory rape.

2. Policies concerning referrals and parental notification regarding contraception shall be determined by local school boards **or charter schools**, consistent with the provisions of section 167.611, RSMo.

3. A school district **or charter school** which provides human sexuality instruction may separate students according to gender for instructional purposes.

4. The board of a school district **or charter school** shall determine the specific content of the district's **or school's** instruction in human sexuality, in accordance with subsections 1 to 3 of this section, and shall ensure that all instruction in human sexuality is appropriate to the age of the students receiving such instruction.

5. A school district **or charter school** shall notify the parent or legal guardian of each student enrolled in the district **or school** of:

(1) The basic content of the district's **or school's** human sexuality instruction to be provided to the student; and

(2) The parent's right to remove the student from any part of the district's **or school's** human sexuality instruction.

6. A school district **or charter school** shall make all curriculum materials used in the district's **or school's** human sexuality instruction available for public inspection pursuant to chapter 610, RSMo, prior to the use of such materials in actual instruction.

7. No school district or charter school, or its personnel or agents, shall provide abortion services, or permit a person or entity to offer, sponsor, or furnish in any manner any course materials or instruction relating to human sexuality or sexually transmitted diseases to its students if such person or entity is a provider of abortion services.

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

(1) "Abortion", the same meaning as such term is defined in section 188.015, RSMo;

(2) "Abortion services":

(a) Performing, inducing, or assisting in the performance or inducing of an abortion which is not necessary to save the life of the mother;

(b) Encouraging a patient to have an abortion or referring a patient for an abortion, which is not necessary to save the life of the mother; or

(c) Developing or dispensing drugs, chemicals, or devices intended to be used to induce an abortion which is not necessary to save the life of the mother.

188.015. DEFINITIONS. — **[**Unless the language or context clearly indicates a different meaning is intended, the following words or phrases for the purposes of sections 188.010 to 188.130 shall be given the meaning ascribed to them**] As used in this chapter, the following terms mean**:

(1) "Abortion", the intentional destruction of the life of an embryo or fetus in his or her mother's womb or the intentional termination of the pregnancy of a mother with an intention other than to increase the probability of a live birth or to remove a dead or dying unborn child;

(2) "Abortion facility", a clinic, physician's office, or any other place or facility in which abortions are performed **or induced** other than a hospital;

(3) "Conception", the fertilization of the ovum of a female by a sperm of a male;

(4) **"Department", the department of health and senior services;**

(5) "Gestational age", length of pregnancy as measured from the first day of the woman's last menstrual period;

(6) "Medical emergency", a condition which, on the basis of a physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the pregnant woman or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman;

[(5)**] (7)** "Physician", any person licensed to practice medicine in this state by the state board of registration of the healing arts;

[(6)**] (8)** "Unborn child", the offspring of human beings from the moment of conception until birth and at every stage of its biological development, including the human conceptus, zygote, morula, blastocyst, embryo, and fetus;

[(7)**] (9)** "Viability", that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems.

188.075. VIOLATION OF SECTIONS 188.010 TO 188.085 A CLASS A MISDEMEANOR — AFFIRMATIVE DEFENSE. — 1. Any person who contrary to the provisions of sections 188.010 to 188.085 knowingly performs**, induces,** or aids in the performance **or inducing** of any abortion or knowingly fails to perform any action required by sections 188.010 to 188.085 shall be guilty of a class A misdemeanor**, unless a different penalty is provided for in state law,** and, upon conviction, shall be punished as provided by law.

2. It shall be an affirmative defense for any person alleged to have violated any provision of this chapter that the person performed an action or did not perform an action because of a medical emergency. This affirmative defense shall be available in criminal, civil, and administrative actions or proceedings. The defendant shall have the burden of persuasion that the defense is more probably true than not.

188.325. PROGRAM ESTABLISHED, SERVICES PROVIDED — MATCHING MONEYS TO BE SOUGHT — MONEYS NOT TO BE USED FOR ABORTION OR ABORTION SERVICES. — 1. There is hereby established the "Missouri Alternatives to Abortion Services Program" which shall be administered by a state agency or agencies, as designated by appropriations to such or each agency. The alternatives to abortion services program shall consist of services or counseling to pregnant women and continuing for one year after birth to assist women in carrying their unborn children to term instead of having abortions, and to assist women in caring for their dependent children or placing their children for adoption.

2. Services provided under the alternatives to abortion program shall include, but not be limited to the following:

(1) Prenatal care;
(2) Medical and mental health care;
(3) Parenting skills;
(4) Drug and alcohol testing and treatment;
(5) Child care, and newborn and infant care;
(6) Housing and utilities;
(7) Educational services;
(8) Food, clothing, and supplies relating to pregnancy, newborn care, and parenting;
(9) Adoption assistance;
(10) Job training and placement;
(11) Establishing and promoting responsible paternity;
(12) Ultrasound services;
(13) Case management;
(14) Domestic abuse protection; and
(15) Transportation.

3. Actual provision and delivery of services and counseling shall be dependent on client needs and not otherwise prioritized by the agency or agencies administering the program. Services and counseling shall be available only during pregnancy and continuing for one year after birth, and shall exclude any family planning services. The agency or agencies administering the program may contract with other public or private agencies or entities to provide the services or counseling on behalf of the agency or agencies administering the program. Such other public or private agencies or entities may provide additional services or counseling, or services or counseling for more than one year after birth, that are not funded under the alternatives to abortion services program, as long as such services or counseling are not inconsistent with the provisions of this section. Contractors for the alternatives to abortion services program may also be contractors for the alternatives to abortion public awareness program established in section 188.335.

4. The agency or agencies administering the program shall to the greatest extent possible supplement and match moneys appropriated for the alternatives to abortion services program with federal and other public moneys and with private moneys. The agency or agencies administering the program shall prioritize such additional federal, other public, and private moneys so that they are used preferentially for the alternatives to abortion services program and the alternatives to abortion public awareness program.

5. The alternatives to abortion services program and the moneys expended under this section shall not be used to perform or induce, assist in the performing or inducing of or refer for abortions. Moneys expended under this section shall not be granted to organizations or affiliates of organizations that perform or induce, assist in the performing or inducing of or refer for abortions.

188.335. PROGRAM ESTABLISHED, PURPOSE — MATCHING MONEYS TO BE SOUGHT — MONEYS NOT TO BE USED FOR ABORTION OR ABORTION SERVICES. — 1. There is hereby established the "Missouri Alternatives to Abortion Public Awareness Program" which shall be administered by a state agency or agencies, as designated by appropriations to such or each agency.

2. The purpose of the alternatives to abortion public awareness program is to help pregnant women at risk for having abortions to be made aware of the alternatives to abortion agencies located and alternatives to abortion services available to them in their local communities. The alternatives to abortion public awareness program shall include the development and promotion of a web site which provides a geographically indexed list of alternatives to abortion agencies as well as contractors for the alternatives to abortion services program established in section 188.325. As used in this section, "alternatives to abortion agencies" means agencies exempt from income taxation pursuant to the United States Internal Revenue Code that offer alternatives to abortion services as defined within section 188.325, including but not limited to maternity homes, pregnancy resource centers, and agencies commonly known and referred to as crisis pregnancy centers. The alternatives to abortion public awareness program may also include but need not be limited to the use of television, radio, outdoor advertising, newspapers, magazines, and other print media, and the Internet to provide information on these alternatives to abortion agencies and services. The state agency or agencies administering the alternatives to abortion public awareness program are encouraged to give first preference to contracting with private agencies or entities, which are exempt from income taxation pursuant to the United States Internal Revenue Code, to conduct the alternatives to abortion public awareness program. Contractors for the alternatives to abortion public awareness program may also be contractors for the alternatives to abortion services program established in section 188.325.

3. The agency or agencies administering the program shall to the greatest extent possible supplement and match moneys appropriated for the alternatives to abortion public awareness program with federal and other public moneys and with private

moneys. The agency or agencies administering the program shall prioritize such additional federal, other public, and private moneys so that they are used preferentially for the alternatives to abortion public awareness program and the alternatives to abortion services program.

4. The alternatives to abortion public awareness program and the moneys expended under this section shall not be used to perform or induce, assist in the performing or inducing of or refer for abortions. Moneys expended under this section shall not be granted to organizations or affiliates of organizations that perform or induce, assist in the performing or inducing of or refer for abortions.

197.200. DEFINITIONS. — As used in sections 197.200 to 197.240, unless the context clearly indicates otherwise, the following terms mean:

(1) "Ambulatory surgical center", any public or private establishment operated primarily for the purpose of performing surgical procedures or primarily for the purpose of performing childbirths, **or any establishment operated for the purpose of performing or inducing any second or third trimester abortions or five or more first trimester abortions per month,** and which does not provide services or other accommodations for patients to stay more than twenty-three hours within the establishment, provided, however, that nothing in this definition shall be construed to include the offices of dentists currently licensed pursuant to chapter 332, RSMo;

(2) "Dentist", any person currently licensed to practice dentistry pursuant to chapter 332, RSMo;

(3) "Department", the department of health and senior services;

(4) "Governmental unit", any city, county or other political subdivision of this state, or any department, division, board or other agency of any political subdivision of this state;

(5) "Person", any individual, firm, partnership, corporation, company, or association and the legal successors thereof;

(6) "Physician", any person currently licensed to practice medicine pursuant to chapter 334, RSMo;

(7) "Podiatrist", any person currently licensed to practice podiatry pursuant to chapter 330, RSMo.

Approved July 6, 2007

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