HB 38 [SCS HCS HB 38]

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 the work-off rate for city prisoners and requires certain administrative officials of jails or detention facilities to notify specified law enforcement of an escape of certain specified felons

AN ACT to repeal section 71.220, RSMo, and to enact in lieu thereof two new sections relating to jails.

SECTION

A. Enacting clause.
71.220. City prisoners, labor on public works — fines payable in installments.
221.503. MULES to be notified of escape of a dangerous felon from certain jails and detention facilities, when, information to be included.

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

SECTION A. ENACTING CLAUSE. — Section 71.220, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 71.220 and 221.503, to read as follows:

71.220. CITY PRISONERS, LABOR ON PUBLIC WORKS — FINES PAYABLE IN INSTALLMENTS. — 1. The various cities, towns and villages in this state, whether organized under special charter or under the general laws of the state, are hereby authorized and empowered to, by ordinance, cause all persons who have been convicted and sentenced by the court having jurisdiction, for violation of ordinance of such city, town or village, whether the punishment be by fine or imprisonment, or by both, to be put to work and perform labor on the public streets, highways and alleys or other public works or buildings of such city, town or village, for such purposes as such city, town or village may deem necessary. And the marshal, constable, street commissioner, or other proper officer of such city, town or village, shall have power and be authorized and required to have or cause all such prisoners as may be directed by the mayor, or other chief officer of such city, town or village, to work out the full number of days for which they may have been sentenced, at breaking rock, or at working upon such public streets, highways or alleys or other public works or buildings of such city, town or village as may have been designated. And if the punishment is by fine, and the fine be not paid, then for **[** every ten dollars of such judgment**] a portion of such judgment that is equal to the greater of the actual daily cost of incarcerating the prisoner or the amount the municipality is reimbursed by the state for incarcerating the prisoner,** the prisoner shall work one day. And it shall be deemed a part of the judgment and sentence of the court that such prisoner may be worked as herein provided.

2. When a fine is assessed for violation of an ordinance, it shall be within the discretion of the judge, or other official, assessing the fine to provide for the payment of the fine on an installment basis under such terms and conditions as he may deem appropriate.

221.503. MULES TO BE NOTIFIED OF ESCAPE OF A DANGEROUS FELON FROM CERTAIN JAILS AND DETENTION FACILITIES, WHEN, INFORMATION TO BE INCLUDED. — 1. As soon as reasonably possible, but in no case more than five hours after a person who has been convicted of murder in the first degree or a dangerous felony as defined in section 556.061 or who is being held on suspicion of having committed murder in the first degree or a dangerous felony as defined in section 556.061 has escaped from a municipal detention facility, county jail, regional jail, or private jail, the chief law enforcement official

responsible for such jail or detention facility or the chief administrator in the case of a private jail shall cause notification of the escape to be made to the Missouri uniform law enforcement system (MULES).

2. The notification required by this section may include the name of the escaped individual, any facts relevant to identifying the escaped individual, including but not limited to, a physical description, a photograph or video of such individual, a description of any mode of transportation such individual is believed to be using, and a description of any person believed to be assisting such person in the escape, if any. The notification shall also include the crimes for which the person was incarcerated in the jail or detention facility and contact information for the jail or detention facility which can be used by any person to report any information concerning the whereabouts of the escaped person.

Approved June 17, 2011

HB 45 [SS SCS HCS HB 45]

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 Big Government Get Off My Back Act which provides an income tax deduction for certain small businesses that create new full-time jobs

AN ACT to repeal section 1.310, RSMo, and to enact in lieu thereof two new sections relating to small businesses.

SECTION

A. Enacting clause.
1.310. Big government get off my back act — certain federal mandates not subject to appropriations or statutory authorization — no user fees to be increased for five-year period.
143.173. Tax deduction for job creation by small businesses, definitions, amount, procedure, sunset date.

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

SECTION A. ENACTING CLAUSE. — Section 1.310, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 1.310 and 143.173, to read as follows:

1.310. BIG GOVERNMENT GET OFF MY BACK ACT — CERTAIN FEDERAL MANDATES NOT SUBJECT TO APPROPRIATIONS OR STATUTORY AUTHORIZATION — NO USER FEES TO BE INCREASED FOR FIVE-YEAR PERIOD. — 1. This section shall be known and may be cited as the "Big Government Get Off My Back Act".

2. **Any federal mandate compelling the state to enact, enforce, or administer a federal regulatory program shall be subject to authorization through appropriation or statutory enactment.**

3. No user fees imposed by the state of Missouri shall increase for the **[**four-year**] five-year** period beginning on August 28, 2009, unless such fee increase is to implement a federal program administered by the state or is a result of an act of the general assembly. For purposes of this section, "user fee" does not include employer taxes or contributions, assessments to offset the cost of examining insurance or financial institutions, any health-related taxes approved by **the** Center for Medicare and Medicaid Services, or any professional or occupational licensing fees set by a board of members of that profession or occupation and required by statute to be set at a level not to exceed the cost of administration.

[3.**]** **4.** For the **[**four-year**]** **five-year** period beginning on August 28, 2009, any state agency proposing a rule as that term is defined in subdivision (6) of section 536.010, other than any rule promulgated as a result of a federal mandate, or to implement a federal program administered by the state or an act of the general assembly, shall either:

(1) Certify that the rule does not have an adverse impact on small businesses consisting of fewer than **[**twenty-five**]** **fifty** full- or part-time employees; or

(2) Certify that the rule is necessary to protect the life, health or safety of the public; or

(3) Exempt any small business consisting of fewer than **[**twenty-five**]** **fifty** full- or part-time employees from coverage.

[4.**]** **5.** The provisions of this section shall not be construed to prevent or otherwise restrict an agency from promulgating emergency rules pursuant to section 536.025, or from rescinding any existing rule pursuant to section 536.021.

143.173. TAX DEDUCTION FOR JOB CREATION BY SMALL BUSINESSES, DEFINITIONS, AMOUNT, PROCEDURE, SUNSET DATE. — 1. As used in this section, the following terms mean:

(1) "County average wage", the average wages in each county as determined by the department of economic development for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of this section;

(2) "Deduction", an amount subtracted from the taxpayer's Missouri adjusted gross income to determine Missouri taxable income, or federal taxable income in the case of a corporation, for the tax year in which such deduction is claimed;

(3) "Full-time employee", a position in which the employee is considered full-time by the taxpayer and is required to work an average of at least thirty-five hours per week for a fifty-two week period;

(4) "New job", the number of full-time employees employed by the small business in Missouri on the qualifying date that exceeds the number of full-time employees employed by the small business in Missouri on the same date of the immediately preceding taxable year;

(5) "Qualifying date", any date during the tax year as chosen by the small business;

(6) "Small business", any small business consisting of fewer than fifty full or part-time employees;

(7) "Taxpayer", any small business subject to the income tax imposed in this chapter.

2. In addition to all deductions listed in this chapter, for all taxable years beginning on or after January 1, 2011, and ending on or before December 31, 2014, a taxpayer shall be allowed a deduction for each new job created by the small business in the taxable year. The deduction amount shall be as follows:

(1) Ten thousand dollars for each new job created with an annual salary of at least the county average wage; or

(2) Twenty thousand dollars for each new job created with an annual salary of at least the county average wage if the small business offers health insurance and pays at least fifty percent of such insurance premiums.

3. The department of revenue shall establish the procedure by which the deduction provided in this section may be claimed, and 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, 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 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, 2011, shall be invalid and void.

4. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December thirty-first three 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 on December thirty-first three 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 July 8, 2011

HB 68 [HB 68]

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 a political subdivision from imposing a fine or penalty on the owner of a pay telephone on the owner's property for a call made to an emergency telephone service from the pay telephone

AN ACT to repeal section 190.308, RSMo, and to enact in lieu thereof one new section relating to misuse of emergency telephone service, with an existing penalty provision.

SECTION

A. Enacting clause.

190.308. Misuse of emergency telephone service unlawful, definitions, penalty — no local fine or penalty for pay telephones for calls to emergency telephone service.

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

SECTION A. ENACTING CLAUSE. — Section 190.308, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 190.308, to read as follows:

190.308. MISUSE OF EMERGENCY TELEPHONE SERVICE UNLAWFUL, DEFINITIONS, PENALTY — NO LOCAL FINE OR PENALTY FOR PAY TELEPHONES FOR CALLS TO EMERGENCY TELEPHONE SERVICE. — 1. In any county that has established an emergency telephone service pursuant to sections 190.300 to 190.320, it shall be unlawful for any person to misuse the emergency telephone service. For the purposes of this section, "emergency" means any incident involving danger to life or property that calls for an emergency response dispatch of police, fire, EMS or other public safety organization, "misuse the emergency telephone service", includes, but is not limited to, repeatedly calling the "911" for nonemergency situations causing operators or equipment to be in use when emergency situations may need such operators or equipment and "repeatedly" means three or more times within a one-month period.

2. Any violation of this section is a class B misdemeanor.

3. No political subdivision shall impose any fine or penalty on the owner of a pay telephone or on the owner of any property upon which a pay telephone is located for calls to the emergency telephone service made from the pay telephone. Any such fine or penalty is hereby void.

Approved July 1, 2011

HB 70 [HCS HB 70]

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 compensation and mileage allowance for certain members of a county highway commission

AN ACT to repeal section 230.220, RSMo, and to enact in lieu thereof one new section relating to county highway commissions.

SECTION

A. Enacting clause.
230.220. Commission membership, districts — members, election of — compensation and mileage, funds used for — vacancies, how filled.

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

SECTION A. ENACTING CLAUSE. — Section 230.220, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 230.220, to read as follows:

230.220. COMMISSION MEMBERSHIP, DISTRICTS — MEMBERS, ELECTION OF — COMPENSATION AND MILEAGE, FUNDS USED FOR — VACANCIES, HOW FILLED. — 1. In each county adopting it, the county highway commission established by sections 230.200 to 230.260 shall be composed of the three commissioners of the county commission and one person elected from the unincorporated area of each of the two county commission districts. Except that the presiding commissioner and one of the associate commissioners by process of election may reside in the same township, not more than one member of the county highway commission shall be a resident of the same township of the county. The county commission shall designate one county commission district as district A and the other as district B. The member of the county highway commission first elected from district A shall serve a term of two years. The member first elected from district B shall serve a term of four years. Upon the expiration of the term of each such member, his successors shall be elected for a term of four years. The commissioners of the county commission shall serve as members of the county highway commission during their term as county commissioners.

2. The elected members of the county highway commission shall be nominated at the primary election and elected at the general election next following the adoption of the proposition for the alternative county highway commission by the voters of the county. Candidates shall file and the election shall be conducted in the same manner as for the nomination and election of candidates for county office. Within thirty days after the adoption of an alternative county highway commission by the voters of any county as provided in sections 230.200 to 230.260, the governor shall appoint a county highway commissioner from each district from which a member will be elected at the next following general election. The commissioners so appointed shall hold their office until their successors are elected at the following general election. Appointments shall be made by naming one member from each of the two political parties casting the highest number of votes in the preceding general election.

3. Members of the county highway commission **[**shall receive as compensation for their services fifteen dollars per day for the first meeting each month and five dollars for each meeting thereafter during the month. The members shall also receive a mileage allowance of eight cents per mile actually and necessarily traveled in the performance of their duties. The compensation

and mileage allowance of the members of the commission shall be paid out of the road and bridge fund of the county**] who are not also members of the county's governing body shall receive an attendance fee in an amount per meeting as set by the county's governing body, not to exceed one hundred dollars, and a mileage allowance for miles actually and necessarily traveled in the performance of their duties in the same amount per mile received by the members of the county's governing body to be paid out of the road and bridge fund of the county**.

4. If a vacancy occurs among the elected members of the county highway commission, the members of the county highway commission shall select a successor who shall serve until the next regular election.

Approved June 30, 2011

HB 73 [SS SCS HCS HB 73 & 47]

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 certain applicants for and recipients of Temporary Assistancefor Needy Families Program benefits to be tested for illegal drug use and the benefit card to include a photo of the recipient or payee

AN ACT to amend chapter 208, RSMo, by adding thereto two new sections relating to illegal drug use of applicants and recipients of temporary assistance for needy families benefits.

SECTION

A. Enacting clause.
208.027. TANF recipients, screening for illegal use of controlled substances, test to be used — positive test or refusal to be tested, administrative proceeding — reporting requirements — other household members to continue to receive benefits, when — rulemaking authority.
1. TANF electronic benefit cards to include photograph of recipient.

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

SECTION A. ENACTING CLAUSE. — Chapter 208, RSMo, is amended by adding thereto two new sections, to be known as sections 208.027 and 1, to read as follows:

208.027. TANF RECIPIENTS, SCREENING FOR ILLEGAL USE OF CONTROLLED SUBSTANCES, TEST TO BE USED — POSITIVE TEST OR REFUSAL TO BE TESTED, ADMINISTRATIVE PROCEEDING — REPORTING REQUIREMENTS — OTHER HOUSEHOLD MEMBERS TO CONTINUE TO RECEIVE BENEFITS, WHEN — RULEMAKING AUTHORITY. — 1. The department of social services shall develop a program to screen each applicant or recipient who is otherwise eligible for temporary assistance for needy families benefits under this chapter, and then test, using a urine dipstick five panel test, each one who the department has reasonable cause to believe, based on the screening, engages in illegal use of controlled substances. Any applicant or recipient who is found to have tested positive for the use of a controlled substance, which was not prescribed for such applicant or recipient by a licensed health care provider, or who refuses to submit to a test, shall, after an administrative hearing conducted by the department under the provisions of chapter 536, be declared ineligible for temporary assistance for needy families benefits for a period of three years from the date of the administrative hearing decision unless such applicant or recipient, after having been referred by the department, enters and successfully completes a substance abuse treatment program and does not test positive for illegal use

of a controlled substance in the six-month period beginning on the date of entry into such rehabilitation or treatment program. The applicant or recipient shall continue to receive benefits while participating in the treatment program. The department may test the applicant or recipient for illegal drug use at random or set intervals, at the department's discretion, after such period. If the applicant or recipient tests positive for the use of illegal drugs a second time, then such applicant or recipient shall be declared ineligible for temporary assistance for needy families benefits for a period of three years from the date of the administrative hearing decision. The department shall refer an applicant or recipient who tested positive for the use of a controlled substance under this section to an appropriate substance abuse treatment program approved by the division of alcohol and drug abuse within the department of mental health.

2. Case workers of applicants or recipients shall be required to report or cause a report to be made to the children's division in accordance with the provisions of sections 210.109 to 210.183 for suspected child abuse as a result of drug abuse in instances where the case worker has knowledge that:

(1) An applicant or recipient has tested positive for the illegal use of a controlled substance; or

(2) An applicant or recipient has refused to be tested for the illegal use of a controlled substance.

3. Other members of a household which includes a person who has been declared ineligible for temporary assistance for needy families assistance shall, if otherwise eligible, continue to receive temporary assistance for needy families benefits as protective or vendor payments to a third-party payee for the benefit of the members of the household.

4. The department of social services shall promulgate rules to develop the screening and testing provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, 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, 2011, shall be invalid and void.

SECTION 1. TANF ELECTRONIC BENEFIT CARDS TO INCLUDE PHOTOGRAPH OF RECIPIENT. — All electronic benefits cards distributed to recipients of temporary assistance for needy families benefits shall have imprinted on the card a photograph of the recipient or protective payee authorized to use the card and shall expire and be subject to renewal after a period of three years. The card shall not be accepted for use by a retail establishment if the photograph of the recipient does not match the person presenting the card.

Approved July 12, 2011

HB 83 [HCS HB 83]

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 an agreement to operate or share an automated teller machine cannot prohibit the owner or operator of the machine from imposing an access fee or surcharge on foreign bank transactions

AN ACT to repeal sections 362.111 and 370.073, RSMo, and to enact in lieu thereof two new sections relating to international transactions.

SECTION

A. Enacting clause.
362.111. Fees and service charges permitted, when, conditions.
370.073. Fee or service charge authorized, when.

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

SECTION A. ENACTING CLAUSE. — Sections 362.111 and 370.073, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 362.111 and 370.073, to read as follows:

362.111. FEES AND SERVICE CHARGES PERMITTED, WHEN, CONDITIONS. — 1. A bank or trust company may impose fees or service charges on deposit accounts; however, such fees or service charges are subject to such conditions or requirements that may be fixed by regulations pursuant to section 361.105 by the director of the division of finance and the state banking board. Notwithstanding any law to the contrary, no such condition or requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution.

2. An agreement to operate or share an automated teller machine shall not prohibit an owner or operator of the automated teller machine from imposing, on an individual who conducts a transaction using a foreign account, an access fee or surcharge that is not otherwise prohibited under federal or state law.

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

(1) "Automated teller machine", any electronic device, wherever located, through which a consumer may initiate an electronic funds transfer or may order, instruct, or authorize a financial institution to debit or credit an account and includes any machine or device which may be used to carry out electronic banking business. "Automated teller machine" does not include point of sale terminals or telephones or personal computers operated by a consumer;

(2) "Foreign account", an account with a financial institution located outside the United States.

370.073. FEE OR SERVICE CHARGE AUTHORIZED, WHEN. — 1. A credit union may impose fees or service charges on deposit accounts or similar accounts; however, such fees or service charges are subject to such conditions or requirements that may be fixed by regulations pursuant to this chapter by the director of credit union supervision and the credit union commission. Notwithstanding any law to the contrary, no such condition or requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution.

2. An agreement to operate or share an automated teller machine shall not prohibit an owner or operator of the automated teller machine from imposing, on an individual who conducts a transaction using a foreign account, an access fee or surcharge that is not otherwise prohibited under federal or state law.

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

(1) "Automated teller machine", any electronic device, wherever located, through which a consumer may initiate an electronic funds transfer or may order, instruct, or authorize a financial institution to debit or credit an account and includes any machine or device which may be used to carry out electronic banking business. "Automated teller machine" does not include point of sale terminals or telephones or personal computers operated by a consumer;

(2) "Foreign account", an account with a financial institution located outside the United States.

Approved June 16, 2011

HB 89 [SS#2 SCS HCS HB 89]

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 natural resources

AN ACT to repeal sections 247.060, 253.090, 386.850, 444.773, 621.250, 643.020, 643.040, 643.050, 643.060, 643.079, 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 643.253, 643.260, 644.036, 644.051, 644.054, 644.071, 701.033, and 701.332, RSMo, and to enact in lieu thereof forty new sections relating to natural resources, with penalty provisions and an emergency clause for certain sections.

SECTION

A. Enacting clause.
37.970. Transparency policy — public availability of data — broad interpretation of sunshine law requests — breach of the public trust, when.
67.4500. Definitions.
67.4505. Authority created, powers, purpose — income and property exempt from taxation — immunity from liability.
67.4510. Members, appointment.
67.4515. Initial meeting, when — officers, executive director — surety bond requirements — conflict of interest.
67.4520. Powers of authority — transfer of property to authority, when — zoning and planning powers.
192.1250. Water quality testing system, feasibility of — report.
247.060. Board of directors — powers, qualifications, appointment, terms, vacancies, how filled — elections held, when, procedure — attendance fee — suspension of members, when.
253.090. State park earnings fund created, how used.
442.014. Private landowner protection act — definitions — conservation easement permitted, when, validity — applicability.
444.771. Limitation on permits near an accredited school.
444.773. Director to investigate applications — recommendation — public meeting or hearing — denial of permit, when.
620.2300. Definitions — applications process.
621.250. Appeals from decisions of certain environmental commissions to be heard by administrative hearing commission — procedure.
640.018. Permit issuance after expiration of statutorily required time frame — engineering plans, specifications and designs — permit application or modification, statement required, use by department.
640.128. Voluntary reporting by permit holders, department to notify local and state health departments of potential risks.
640.850. Committee to be convened, purpose, report.
643.020. Definitions.
643.040. Air conservation commission created — members, terms, expenses, meetings.
643.050. Powers and duties of commission — rules, procedure.
643.060. Powers and duties of director.
643.079. Fees, amount — deposit of moneys, where, subaccount to be maintained — civil action for failure to remit fees, effect upon permit — agencies, determination of fees.
643.080. Investigations, when made — violation, how eliminated — hearing, procedure — final order, notice of.
643.130. Judicial review.
643.191. Violation of certain requirements unlawful, penalty — false statements unlawful, penalty.
643.225. Rules for asbestos abatement projects, standards and examinations — certification requirements — application — examination, content — certificate expires, when — fees — renewal of certificate requirements — refresher course — failure to pass examination, may repeat exam, when — fee for renewal.

643.232. Asbestos abatement contractor required to register annually, qualifications — project requirements — registration fee.
643.237. Projects requiring special application, form, contents — procedure — fee, exemptions from fee — emergency projects, procedure — revision of project plans, notification of department required.
643.240. Friable material subject to regulation — air sample analysis, how conducted.
643.242. Inspection of projects, when — inspection fee — postponement of project, notice to department, failure to notify, effect — exemption from fee for local air pollution control agency, when.
643.245. Natural resources protection fund — air pollution asbestos fee subaccount created — purpose — lapse into general revenue prohibited — fund deposited where, by state treasurer, interest credited to fund.
643.250. Entry by department on public or private property for regulation purposes — refusal to allow grounds for revocation or injunctions, violations of regulations, penalties.
644.036. Public hearings — rules and regulations, how promulgated — listings under Clean Water Act, requirements, procedures.
644.051. Prohibited acts — permits required, when, fee — bond required of permit holders, when — permit application procedures — rulemaking — limitation on use of permit fee moneys — permit shield provisions.
644.054. Fees, billing and collection — administration, generally — fees to become effective, when — fees to expire, when — variances granted, when — fee structure review.
644.071. Judicial review authorized.
644.145. Affordability finding required, when — definitions — procedures to be adopted — appeal of determination.
701.033. Department of health and senior services — powers and duties — rules, procedure.
701.058. Stakeholder meetings, permits and inspections of systems — report.
1. Nonseverability of act.
386.850. Task force, required meetings.
643.253. Definitions.
643.260. Definitions.
701.332. Project not to include single-family dwelling — other excluded structures, conditions.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 247.060, 253.090, 386.850, 444.773, 621.250, 643.020, 643.040, 643.050, 643.060, 643.079, 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 643.253, 643.260, 644.036, 644.051, 644.054, 644.071, 701.033, and 701.332, RSMo, are repealed and forty new sections enacted in lieu thereof, to be known as sections 37.970, 67.4500, 67.4505, 67.4510, 67.4515, 67.4520, 192.1250, 247.060, 253.090, 442.014, 444.771, 444.773, 620.2300, 621.250, 640.018, 640.128, 640.850, 643.020, 643.040, 643.050, 643.060, 643.079, 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 644.036, 644.051, 644.054, 644.071, 644.145, 701.033, 701.058, and 1, to read as follows:

37.970. TRANSPARENCY POLICY—PUBLIC AVAILABILITY OF DATA—BROAD INTERPRETATION OF SUNSHINE LAW REQUESTS—BREACH OF THE PUBLIC TRUST, WHEN. — 1. It shall be the policy of each state department to carry out its mission with full transparency to the public. Any data collected in the course of its duties shall be made available to the public in a timely fashion. Data, reports, and other information resulting from any activities conducted by the department in the course of its duties shall be easily accessible by any member of the public.

2. Each department shall broadly interpret any request for information under section 610.023:

(1) Even if such request for information does not use the words "sunshine request", "open records request", "public records request", or any such similar wording;

(2) Even if the communication is simply an inquiry as to the availability or existence of data or information; and

(3) Regardless of the format in which the communication is made, including electronic mail, facsimile, internet, postal mail, in person, telephone, or any other format.

3. Any failure by a department to release information shall, in addition to any other applicable violation of law, be considered a violation of the department's policy under this section and shall constitute a breach of the public's trust.

4. This section shall not be construed to limit or exceed the requirements of the provisions in chapter 610, nor shall this section require different treatment of a record considered closed or confidential under section 610.021 than what is required under that section.

67.4500. DEFINITIONS. — As used in sections 67.4500 to 67.4520, the following terms shall mean:

(1) "Authority", any county drinking water supply lake authority created by sections 67.4500 to 67.4520;

(2) "Conservation storage level", the target elevation established for a drinking water supply lake at the time of design and construction of such lake;

(3) "Costs", the sum total of all reasonable or necessary expenses incidental to the acquisition, construction, expansion, repair, alteration, and improvement of the project, including without limitation the following: the expense of studies and surveys; the cost of all lands, properties, rights, easements, and franchises acquired; land title and mortgage guaranty policies; architectural and engineering services; legal, organizational marketing, or other special services; provisions for working capital; reserves for principal and interest; and all other necessary and incidental expenses, including interest during construction on bonds issued to finance the project and for a period subsequent to the estimated date of completion of the project;

(4) "Project", recreation and tourist facilities and services, including, but not limited to, lakes, parks, recreation centers, restaurants, hunting and fishing reserves, historic sites and attractions, and any other facilities that the authority may desire to undertake, including the related infrastructure buildings and the usual and convenient facilities appertaining to any undertakings, and any extensions or improvements of any facilities, and the acquisition of any property necessary therefore, all as may be related to the development of a water supply source, recreational and tourist accommodations, and facilities;

(5) "Water commission", a water commission owning a reservoir formed pursuant to sections 393.700 to 393.770;

(6) "Watershed", the area that contributes or may contribute to the surface water of any lake as determined by the authority.

67.4505. AUTHORITY CREATED, POWERS, PURPOSE — INCOME AND PROPERTY EXEMPT FROM TAXATION — IMMUNITY FROM LIABILITY. — 1. There is hereby created within any county of the third classification with a township form of government and with more than seven thousand two hundred but fewer than seven thousand three hundred inhabitants a county drinking water supply lake authority, which shall be a body corporate and politic and a political subdivision of this state.

2. The authority may exercise the powers provided to it under section 67.4520 over the reservoir area encompassing any drinking water supply lake of one thousand five hundred acres or more, as measured at its conservation storage level, and within the lake's watershed.

3. It shall be the purpose of each authority to promote the general welfare and a safe drinking water supply through the construction, operation, and maintenance of a drinking water supply lake.

4. The income of the authority and all property at any time owned by the authority shall be exempt from all taxation or any assessments whatsoever to the state or of any political subdivision, municipality, or other governmental agency thereof.

5. No county in which an authority is organized shall be held liable in connection with the construction, operation, or maintenance of any project or program undertaken pursuant to sections 67.4500 to 67.4520, including any actions taken by the authority in connection with such project or program.

67.4510. MEMBERS, APPOINTMENT. — A county drinking water supply lake authority shall consist of at least six but not more than thirty members, appointed as follows:

(1) Members of the water commission shall appoint all members to the authority, one-third of the initial members for a six-year term, one-third for a four-year term, and the remaining one-third for a two-year term, until a successor is appointed; provided that, if there is an odd number of members, the last person appointed shall serve a two-year term. Upon the expiration of each term, a successor shall be appointed for a six-year term;

(2) No person shall be appointed to serve on the authority unless he or she is a registered voter in the state for more than five years, a resident in the county where the water commission is located for more than five years, and over the age of twenty-five years. If any member moves outside such county, the seat shall be deemed vacant and a new member shall be appointed by the county commission to complete the unexpired term.

67.4515. INITIAL MEETING, WHEN — OFFICERS, EXECUTIVE DIRECTOR — SURETY BOND REQUIREMENTS — CONFLICT OF INTEREST. — 1. The water commission shall by resolution establish a date and time for the initial meeting of the authority.

2. At the initial meeting, and annually thereafter, the authority shall elect one of its members as chairman and one as vice chairman, and appoint a secretary and a treasurer who may be a member of the authority. If not a member of the authority, the secretary or treasurer shall receive compensation that shall be fixed from time to time by action of the authority. The authority may appoint an executive director who shall not be a member of the authority and who shall serve at its pleasure. If an executive director is appointed, he or she shall receive such compensation as shall be fixed from time to time by action of the authority. The authority may designate the secretary to act in lieu of the executive director. The secretary shall keep a record of the proceedings of the authority and shall be the custodian of all books, documents, and papers filed with the authority, the minute books or journal thereof, and its official seal. The secretary may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that the copies are true and correct copies, and all persons dealing with the authority may rely on such certificates. The authority, by resolution duly adopted, shall fix the powers and duties of its executive director as it may from time to time deem proper and necessary.

3. Each member of the authority shall execute a surety bond in the penal sum of fifty thousand dollars or, in lieu thereof, the chairman of the authority shall execute a blanket bond covering each member and the employees or other officers of the authority, each surety bond to be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety company authorized to transact business in the state as surety, and to be approved by the attorney general and filed in the office of the secretary of state. The cost of each such bond shall be paid by the authority.

4. No authority member shall participate in any deliberations or decisions concerning issues where the authority member has a direct financial interest in contracts, property, supplies, services, facilities, or equipment purchased, sold, or leased by the authority. Authority members shall additionally be subject to the limitations regarding the conduct of public officials as provided in chapter 105.

67.4520. POWERS OF AUTHORITY — TRANSFER OF PROPERTY TO AUTHORITY, WHEN — ZONING AND PLANNING POWERS. — 1. The authority may:

(1) Acquire, own, construct, lease, and maintain recreational or water quality projects;

(2) Acquire, own, lease, sell, or otherwise dispose of interests in and to real property and improvements situated thereon and in personal property necessary to fulfill the purposes of the authority;

(3) Contract and be contracted with, and to sue and be sued;

(4) Accept gifts, grants, loans, or contributions from the federal government, the state of Missouri, political subdivisions, municipalities, foundations, other public or private agencies, individuals, partnerships, or corporations;

(5) Employ such managerial, engineering, legal, technical, clerical, accounting, advertising, stenographic, and other assistance as it may deem advisable. The authority may also contract with independent contractors for any of the foregoing assistance;

(6) Disburse funds for its lawful activities and fix salaries and wages of its employees;

(7) Fix rates, fees, and charges for the use of any projects and property owned, leased, operated, or managed by the authority;

(8) Adopt, alter, or repeal its own bylaws, rules, and regulations governing the manner in which its business may be transacted; however, said bylaws, rules, and regulations shall not exceed the powers granted to the authority by sections 67.4500 to 67.4520;

(9) Either jointly with a similar body, or separately, recommend to the proper departments of the government of the United States, or any state or subdivision thereof, or to any other body, the carrying out of any public improvement;

(10) Provide for membership in any official, industrial, commercial, or trade association, or any other organization concerned with such purposes, for receptions of officials or others as may contribute to the advancement of the authority and development therein, and for such other public relations activities as will promote the same, and such activities shall be considered a public purpose;

(11) Cooperate with municipalities and other political subdivisions as provided in chapter 70;

(12) Enter into any agreement with any other state, agency, authority, commission, municipality, person, corporation, or the United States, to effect any of the provisions contained in sections 67.4500 to 67.4520;

(13) Sell and supply water and construct, own, and operate infrastructure projects in areas within its jurisdiction, including but not limited to roads, bridges, water and sewer systems, and other infrastructure improvements;

(14) Issue revenue bonds in the same manner as provided under section 67.789; and

(15) Adopt tax increment financing within its boundaries in the same manner as provided under section 67.790.

2. The state or any political subdivision or municipal corporation thereof may in its discretion, with or without consideration, transfer or cause to be transferred to the authority or may place in its possession or control, by deed, lease, or other contract or agreement, either for a limited period or in fee, any property wherever situated.

3. The state or any political subdivision may appropriate, allocate, and expend such funds of the state or political subdivision for the benefit of the authority as are reasonable and necessary to carry out the provisions of sections 67.4500 to 67.4520.

4. The authority shall have the authority to exercise all zoning and planning powers that are granted to cities, towns, and villages under chapter 89, except that the authority shall not exercise such powers inside the corporate limits of any city, town, or village which has adopted a city plan under the laws of this state before August 28, 2011.

192.1250. WATER QUALITY TESTING SYSTEM, FEASIBILITY OF — REPORT. — The department of health and senior services shall examine the feasibility of implementing a real-time water quality testing system for measuring the bacterial water quality at state-owned public beaches and shall issue a report of its findings to the general assembly by December 31, 2011.

247.060. BOARD OF DIRECTORS — POWERS, QUALIFICATIONS, APPOINTMENT, TERMS, VACANCIES, HOW FILLED — ELECTIONS HELD, WHEN, PROCEDURE — ATTENDANCE FEE — SUSPENSION OF MEMBERS, WHEN. — 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**, or if not a voter or resident of said district, shall have received service from the district at his or her primary place of residence one whole year immediately prior to his or her 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 April, two shall serve until the first Tuesday after the first Monday in April on the second year following their appointment and the remaining appointees shall serve until the first Tuesday after the first Monday in April 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.

5. Each member of the board may receive an attendance fee not to exceed one hundred dollars for attending each regularly called board meeting, or special meeting, but shall not be paid for attending more than two meetings in any calendar month, except that in a county of the first classification, a member shall not be paid for attending more than four meetings in any calendar month. However, no board member shall be paid more than one attendance fee if such member attends more than one board meeting in a calendar week. In addition, the president of the board of directors may receive fifty dollars for attending each regularly or specially called board meeting, but shall not be paid the additional fee for attending more than two meetings in any calendar month. Each member of the board shall be reimbursed for his or her actual expenditures in the performance of his or her duties on behalf of the district.

6. In no event, however, shall a board member receive any attendance fees or additional compensation authorized in subsection 5 of this section until after such board member has completed a minimum of six hours training regarding the responsibilities of

the board and its members concerning the basics of water treatment and distribution, budgeting and rates, water utility planning, the funding of capital improvements, the understanding of water utility financial statements, the Missouri sunshine law, and this chapter.

7. The circuit court of the county having jurisdiction over the district shall have jurisdiction over the members of the board of directors to suspend any member from exercising his or her office, whensoever it appears that he or she has abused his or her trust or become disqualified; to remove any member upon proof or conviction of gross misconduct or disqualification for his or her office; or to restrain and prevent any alienation of property of the district by members, in cases where it is threatened, or there is good reason to apprehend that it is intended to be made in fraud of the rights and interests of the district.

8. The jurisdiction conferred by this section shall be exercised as in ordinary cases upon petition, filed by or at the instance of any member of the board, or at the instance of any ten voters residing in the district who join in the petition, verified by the affidavit of at least one of them. The petition shall be heard in a summary manner after ten days' notice in writing to the member or officer complained of. An appeal shall lie from the judgment of the circuit court as in other causes, and shall be speedily determined; but an appeal does not operate under any condition as a supersedeas of a judgment of suspension or removal from office.

253.090. STATE PARK EARNINGS FUND CREATED, HOW USED. — 1. All revenue derived from privileges, conveniences, contracts or otherwise, all moneys received by gifts, bequests or contributions or from county or municipal sources and all moneys received from the operation of concessions, projects or facilities and from resale items shall be paid into the state treasury to the credit of the "State Park Earnings Fund", which is hereby created. In the event any state park or any part thereof is taken under the power of eminent domain by the federal government the moneys paid for the taking shall be deposited in the state park earnings fund. The fund shall be used solely for the payment of the expenditures of the department of natural resources in the administration of this law, except that in any fiscal year the department may expend a sum not to exceed fifty percent of the preceding fiscal year's deposits to the state park earnings fund for the purpose of:

(1) Paying the principal and interest of revenue bonds issued;
(2) Providing an interest and sinking fund;
(3) Providing a reasonable reserve fund;
(4) Providing a reasonable fund for depreciation; and
(5) Paying for feasibility reports necessary for the issuing of revenue bonds.

2. **Notwithstanding the provisions of section 33.080 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.**

3. A good and sufficient bond conditioned upon the faithful performance of the contract and compliance with this law shall be required of all contractors.

[3.**] 4.** Any person who contracts pursuant to this section with the state shall keep true and accurate records of his or her receipts and disbursements arising out of the performance of the contract and shall permit the department of natural resources and the state auditor to audit such records.

[4. All moneys remaining in the state park revolving fund on July 1, 2000, shall be transferred to the state park earnings fund.**]**

442.014. PRIVATE LANDOWNER PROTECTION ACT — DEFINITIONS — CONSERVATION EASEMENT PERMITTED, WHEN, VALIDITY — APPLICABILITY. — 1. This act shall be known and may be cited as the "Private Landowner Protection Act".

2. As used in this section, unless the context otherwise requires, the following terms mean:

(1) "Conservation easement", a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property;

(2) "Holder", any of the following:

(a) A governmental body empowered to hold an interest in real property under the laws of this state or the United States;

(b) A charitable corporation, charitable association, or charitable trust, the purposes, powers, or intent of which include retaining or protecting the natural, scenic, or open-space values of real property, assuring the availability of real property for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property; or

(c) An individual or other private entity;

(3) "Third-party right of enforcement", a right expressly provided in a conservation easement to enforce any of its items granted to a designated governmental body, charitable corporation, charitable association, charitable trust, individual, or any other private entity which, although eligible to be a holder, is not a holder.

3. (1) Except as otherwise provided in this section, a conservation easement may be created, conveyed, recorded, assigned, released, modified, terminated, or otherwise altered or affected in the same manner as other easements. No right or duty in favor of or against a holder and no right in favor of a person having a third-party right of enforcement arises under a conservation easement before its acceptance by the holder and a recordation of the acceptance. Except as provided in subdivision (2) of this subsection, a conservation easement is unlimited in duration unless the instrument creating it provides otherwise.

(2) An interest in real property in existence at the time a conservation easement is created is not impaired by it unless the owner of the interest is a party to the conservation easement or consents to it.

4. (1) An action affecting a conservation easement may be brought by an owner of an interest in real property burdened by the easement; a holder of the easement, a person having a third-party right of enforcement; or a person authorized by other law.

(2) This section does not affect the power of a court to modify or terminate a conservation easement in accordance with the principles of law and equity.

5. A conservation easement is valid even though:

(1) It is not appurtenant to an interest in real property;

(2) It can be or has been assigned to another holder;

(3) It is not of a character that has been recognized traditionally at common law;

(4) It imposes a negative burden that would prevent a landowner from performing acts on the land he or she would otherwise be privileged to perform absent the agreed-upon easement;

(5) It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;

(6) The benefit does not touch or concern real property; or

(7) There is no privity of estate or of contract.

6. Nothing in this section shall affect the ability of any public utility, municipal utility, joint municipal utility commission, rural electric cooperative, telephone cooperative, or public water supply district to acquire an easement, either through negotiation with an owner of an interest in real property or by condemnation, to lay or construct plants or

facilities for the transmission or distribution of electricity, natural gas, telecommunications service, water, or the carriage of sewage along or across a conservation easement.

7. This section applies to any interest created after its effective date which complies with this section, whether designated as a conservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise. This section applies to any interest created before its effective date if it would have been enforceable had it been created after its effective date unless retroactive application contravenes the constitution or laws of this state or the United States. This section does not alter the terms of any interest created before its effective date, or impose any additional burden or obligation on any grantor or grantee of such interest, or on their successors or assigns. This section does not invalidate any interest, whether designated as a conservation or preservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise, that is enforceable under other laws of this state.

444.771. LIMITATION ON PERMITS NEAR AN ACCREDITED SCHOOL. — Notwithstanding any other provision of law to the contrary, the commission and the department shall not issue any permits under this chapter or under chapters 643 or 644 to any person whose mine plan boundary is within one thousand feet of any real property where an accredited school has been located for at least five years prior to such application for permits made under these provisions, except that the provisions of this section shall not apply to any request for an expansion to an existing mine or to any underground mining operation.

444.773. DIRECTOR TO INVESTIGATE APPLICATIONS — RECOMMENDATION — PUBLIC MEETING OR HEARING — DENIAL OF PERMIT, WHEN. — 1. All applications for a permit shall be filed with the director, who shall promptly investigate the application and make a recommendation to the commission within four weeks after the public notice period provided in section 444.772 expires as to whether the permit should be issued or denied. If the director determines that the application has not fully complied with the provisions of section 444.772 or any rule or regulation promulgated pursuant to that section, the director shall recommend denial of the permit. The director shall consider any written comments when making his or her recommendation to the commission on the issuance or denial of the permit.

2. If the recommendation of the director is to deny the permit, a hearing as provided in sections 444.760 to 444.790, if requested by the applicant within fifteen days of the date of notice of recommendation of the director, shall be held by the commission.

3. If the recommendation of the director is for issuance of the permit, the director shall issue the permit without a public meeting or a hearing except that upon petition, received prior to the date of the notice of recommendation, from any person whose health, safety or livelihood will be unduly impaired by the issuance of this permit, a public meeting or a hearing may be held. If a public meeting is requested pursuant to this chapter and the applicant agrees, the director shall, within thirty days after the time for such request has passed, order that a public meeting be held. The meeting shall be held in a reasonably convenient location for all interested parties. The applicant shall cooperate with the director in making all necessary arrangements for the public meeting. Within thirty days after the close of the public meeting, the director shall recommend to the commission approval or denial of the permit. If the public meeting does not resolve the concerns expressed by the public, any person whose health, safety or livelihood will be unduly impaired by the issuance of such permit may make a written request to the land reclamation commission for a formal public hearing. The land reclamation commission may grant a public hearing to formally resolve concerns of the public. Any public hearing before the commission shall address one or more of the factors set forth in this section.

4. In any **public** hearing **[**held pursuant to this section the burden of proof shall be on the applicant for a permit.**] ,** if the commission finds, based on competent and substantial scientific evidence on the record, that an interested party's health, safety or livelihood will be unduly

impaired by the issuance of the permit, the commission may deny such permit. If the commission finds, based on competent and substantial scientific evidence on the record, that the operator has demonstrated, during the five-year period immediately preceding the date of the permit application, a pattern of noncompliance at other locations in Missouri that suggests a reasonable likelihood of future acts of noncompliance, the commission may deny such permit. In determining whether a reasonable likelihood of noncompliance will exist in the future, the commission may look to past acts of noncompliance in Missouri, but only to the extent they suggest a reasonable likelihood of future acts of noncompliance. Such past acts of noncompliance in Missouri, in and of themselves, are an insufficient basis to suggest a reasonable likelihood of future acts of noncompliance. In addition, such past acts shall not be used as a basis to suggest a reasonable likelihood of future acts of noncompliance unless the noncompliance has caused or has the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is defined by the United States Environmental Protection Agency as other than minor. If a hearing petitioner or the commission demonstrates either present acts of noncompliance or a reasonable likelihood that the permit seeker or the operations of associated persons or corporations in Missouri will be in noncompliance in the future, such a showing will satisfy the noncompliance requirement in this subsection. In addition, such basis must be developed by multiple noncompliances of any environmental law administered by the Missouri department of natural resources at any single facility in Missouri that resulted in harm to the environment or impaired the health, safety or livelihood of persons outside the facility. For any permit seeker that has not been in business in Missouri for the past five years, the commission may review the record of noncompliance in any state where the applicant has conducted business during the past five years. Any decision of the commission made pursuant to a hearing held pursuant to this section is subject to judicial review as provided in chapter 536. No judicial review shall be available, however, until and unless all administrative remedies are exhausted.

620.2300. DEFINITIONS — APPLICATIONS PROCESS. — 1. As used in this section, the following terms shall mean:

(1) "Department", the Missouri department of economic development;

(2) "Biomass facility", a biomass renewable energy facility or biomass fuel production facility that will not be a major source for air quality permitting purposes;

(3) "Commission", the Missouri public service commission;

(4) "County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any project that is relocating employees from a Missouri county with a higher county average wage, the company shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;

(5) "Full-time employee", an employee of the project facility that is scheduled to work an average of at least thirty-five hours per week for a twelve-month period, and one for which the employer offers health insurance and pays at least fifty percent of such insurance premiums;

(6) "Major source", the same meaning as is provided under 40 C.F.R. 70.2;

(7) "New job", the number of full-time employees located at the project facility that exceeds the project facility base employment less any decrease in the number of full-time employees at related facilities below the related facility base employment. An employee that spends less than fifty percent of the employee's work time at the project facility is still

considered to be located at a facility if the employee receives his or her directions and control from that facility, is on the facility's payroll, one hundred percent of the employee's income from such employment is Missouri income, and the employee is paid at or above the state average wage;

(8) "Park", an area consisting of a parcel or tract of land, or any combination of parcels or contiguous land that meet all of the following requirements:

(a) The area consists of at least fifty contiguous acres;

(b) The property within the area is subject to remediation under a clean up program supervised by the Missouri department of natural resources or United States environmental protection agency;

(c) The area contains a manufacturing facility that is closed, undergoing closure, idle, underutilized, or curtailed and that at one time employed at least two hundred employees;

(d) The development plan for the area includes a biomass facility; and

(e) Property located within the area will be used for the development of renewable energy and the demonstration of industrial on-site energy generation;

(9) "Project", a cleanfields renewable energy demonstration project located within a park that will result in the creation of at least fifty new jobs and the retention of at least fifty existing jobs;

(10) "Project application", an application submitted to the department, by an owner of all or a portion of a park, on a form provided by the department, requesting benefits provided under this section;

(11) "Project facility", a biomass facility at which the new jobs will be located. A project facility may include separate buildings that are located within fifty miles of each other or within the same county such that their purpose and operations are interrelated;

(12) "Project facility base employment", the greater of the number of full-time employees located at the project facility on the date of the project application or for the twelve-month period prior to the date of the project application, the average number of full-time employees located at the project facility. In the event the project facility has not been in operation for a full twelve-month period, the average number of full-time employees for the number of months the project facility has been in operation prior to the date of the project application.

2. The owner of a park seeking to establish a project shall submit a project application to the department for certification of such project. The department shall review all project applications received under this section and, in consultation with the department of natural resources, verify satisfaction of the requirements of this section. If the department approves a project application, the department shall forward such application and approval to the commission.

3. Notwithstanding provisions of section 393.1030 to the contrary, upon receipt of an application and approval from the department, the commission shall assign double credit to any electric power, renewable energy, renewable energy credits, or any successor credit generated from:

(1) Renewable energy resources purchased from the biomass facility located in the park by an electric power supplier;

(2) Electric power generated off-site by utilizing biomass fuel sold by the biomass facility located at the park; or

(3) Electric power generated off-site by renewable energy resources utilizing storage equipment manufactured at the park that increases the quantity of electricity delivered to the electric power supplier.

621.250. APPEALS FROM DECISIONS OF CERTAIN ENVIRONMENTAL COMMISSIONS TO BE HEARD BY ADMINISTRATIVE HEARING COMMISSION — PROCEDURE. — 1. All authority to hear appeals granted in chapters 260, 444, 640, 643, and 644, and to the hazardous waste

management commission in chapter 260, the land reclamation commission in chapter 444, the safe drinking water commission in chapter 640, the air conservation commission in chapter 643, and the clean water commission in chapter 644 shall be transferred to the administrative hearing commission under this chapter. The authority to render final decisions after hearing on appeals heard by the administrative hearing commission shall remain with the commissions listed in this subsection. The **[**commissions listed in this subsection**] administrative hearing commission** may render **a recommended** final **[**decisions**] decision** after hearing or through stipulation, consent order, agreed settlement or by disposition in the nature of default judgment, judgment on the pleadings, or summary determination, consistent with **the requirements of this subsection and** the rules and procedures of the administrative hearing commission.

2. Except as otherwise provided by law, any person or entity who is a party to, or who is **aggrieved or adversely** affected by, any finding, order, decision, or assessment for which the authority to hear appeals was transferred to the administrative hearing commission in subsection 1 of this section may file a notice of appeal with the administrative hearing commission within thirty days after any such finding, order, decision, or assessment is placed in the United States mail or within thirty days of any such finding, order, decision, or assessment being delivered, whichever is earlier. **Within sixty days after the date on which the notice of appeal is filed** the administrative hearing commission **[**may**] shall** hold hearings **and make a recommended decision based on those hearings** or **[**may**] shall** make **a** recommended **[**decisions**] decision** based on stipulation of the parties, consent order, agreed settlement or by disposition in the nature of default judgment, judgment on the pleadings, or summary determination, in accordance with **the requirements of this subsection and** the rules and procedures of the administrative hearing commission.

3. Any decision by the director of the department of natural resources that may be appealed **[**to the commissions listed**] as provided** in subsection 1 of this section **[**and**]** shall contain a notice of the right of appeal in substantially the following language: "If you were adversely affected by this decision, you may appeal to have the matter heard by the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the administrative hearing commission.". Within fifteen days after the administrative hearing commission renders its recommended decision, it shall transmit the record and a transcript of the proceedings, together with the administrative hearing commission's recommended decision to the commission having authority to issue a final decision. The **final** decision of the commission **shall be issued within ninety days of the date the notice of appeal is filed and** shall be based only on the facts and evidence in the hearing record. The commission may adopt the recommended decision as its final decision. The commission may change a finding of fact or conclusion of law made by the administrative hearing commission, or may vacate or modify the recommended decision issued by the administrative hearing commission, only if the commission states in writing the specific reason for a change made under this subsection.

4. In the event the person filing the appeal prevails in any dispute under this section, interest shall be allowed upon any amount found to have been wrongfully collected or erroneously paid at the rate established by the director of the department of revenue under section 32.065.

5. Appropriations shall be made from the respective funds of the various commissions to cover the administrative hearing commission's costs associated with these appeals.

6. In all matters heard by the administrative hearing commission under this section, the burden of proof shall comply with section 640.012. The hearings shall be conducted by the administrative hearing commission in accordance with the provisions of chapter 536 and its regulations promulgated thereunder.

7. No cause of action or appeal arising out of any finding, order, decision, or assessment of any of the commissions listed in subsection 1 of this section shall accrue in any court unless the party seeking to file such cause of action or appeal shall have filed a notice of appeal and received a final decision in accordance with the provisions of this section.

640.018. PERMIT ISSUANCE AFTER EXPIRATION OF STATUTORILY REQUIRED TIME FRAME — ENGINEERING PLANS, SPECIFICATIONS AND DESIGNS — PERMIT APPLICATION OR MODIFICATION, STATEMENT REQUIRED, USE BY DEPARTMENT. — 1. In any case where the department has not issued a permit or rendered a permit decision by the expiration of a statutorily-required time frame for any application for a permit under this chapter or chapters 260, 278, 319, 444, 643, or 644, the permit shall be issued as of the first day following the expiration of the required time frame, provided all necessary information has been submitted for the application and the department has been in possession of all such information for the duration of the required time frame. This subsection shall be considered in addition to, and not in lieu thereof, any other provision of law regarding consequences of failure by the department to issue a permit or permit decision by the expiration of a required time frame.

2. If engineering plans, specifications, and designs prepared by a registered professional engineer are submitted to the department of natural resources as a part of a permit application or permit modification, the permit application or permit modification shall include a statement that the plans, specifications, and designs were prepared in accordance with the applicable requirements and shall be sealed by the registered professional engineer in accordance with section 327.411, as applicable. The department shall use the complete, sealed engineering plans, specifications, and designs as submitted in addition to permit applications and other relevant information, documents, and materials in developing comments on the engineering submittals and in determining whether to issue or deny permits. The review of documents, plans, specifications, and designs sealed by a registered professional engineer for an applicant shall be conducted by a registered professional engineer or an engineering intern on behalf of the department.

3. The department shall designate supervisory registered professional engineers for permitting purposes under this chapter and chapters 260, 278, 319, 444, 643, and 644. Any permit applicant receiving written comments on an engineering submittal may request a determination from the department's supervisory registered professional engineer as to a final disposition of the department's comments regarding engineering submittals in determining a decision on the permit. The department's supervisory engineer shall inform the permit applicant of a preliminary decision within fifteen days after the permit applicant's request for a determination and shall make a final determination within thirty days of such request.

4. Nothing in this section shall be construed to require plans or other submittals to the department pursuant to an application to come under a general permit or an application for a site specific permit to be prepared by a registered professional engineer, unless otherwise required under state or federal law.

640.128. VOLUNTARY REPORTING BY PERMIT HOLDERS, DEPARTMENT TO NOTIFY LOCAL AND STATE HEALTH DEPARTMENTS OF POTENTIAL RISKS. — If an entity that holds a permit issued under chapter 644 or under sections 640.100 to 640.140 voluntarily reports to the department of natural resources the results of any water quality testing conducted by the entity, and such results indicate a potential risk to public health, the department shall immediately notify the local public health authority and the department of health and senior services.

640.850. COMMITTEE TO BE CONVENED, PURPOSE, REPORT. — The governor shall convene a committee of representatives of the departments of health and senior services, natural resources, economic development, agriculture, and conservation. The committee shall evaluate opportunities for consolidating services with the goal of improving efficiency and reducing cost while optimizing the benefits to the citizens of Missouri. As part of its evaluation, the committee shall specifically consider the transfer of the division of energy from the department of natural resources to the department of economic development and the consolidation of water quality laboratory testing under the department of health and senior services for purposes of meeting water testing requirements of the federal Safe Drinking Water Act and the Federal Water Pollution Control Act. The committee shall provide recommendations to the governor and general assembly no later than December 31, 2011.

643.020. DEFINITIONS. — When used in this chapter and in standards, rules and regulations promulgated under authority of this chapter, the following words and phrases mean:

(1) "AHERA", Asbestos Hazard Emergency Response Act of 1986 (P.L. 99-519);

(2) "Abatement project designer", an individual who designs or plans AHERA asbestos abatement;

(3) "Air cleaning device", any method, process, or equipment which removes, reduces, or renders less obnoxious air contaminants discharged into ambient air;

(4) "Air contaminant", any particulate matter or any gas or vapor or any combination thereof;

(5) "Air contaminant source", any and all sources of air contaminants whether privately or publicly owned or operated;

(6) "Air pollution", the presence in the ambient air of one or more air contaminants in quantities, of characteristics and of a duration which directly and proximately cause or contribute to injury to human, plant, or animal life or health or to property or which unreasonably interferes with the enjoyment of life or use of property;

(7) "Ambient air", all space outside of buildings, stacks, or exterior ducts;

(8) "Area of the state", any geographical area designated by the commission;

(9) "Asbestos", the asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite and actinolite;

(10) "Asbestos abatement", the encapsulation, enclosure or removal of **[**asbestos containing**]** **asbestos-containing** materials in or from a building or air contaminant source, or preparation of friable **[**asbestos containing**]** **asbestos-containing** material prior to demolition;

(11) "Asbestos abatement contractor", any person who by agreement, contractual or otherwise, conducts asbestos abatement projects at a location other than his own place of business;

(12) "Asbestos abatement projects", an activity undertaken to encapsulate, enclose or remove **[**ten**]** **one hundred sixty** square feet or **[**sixteen**]** **two hundred sixty** linear feet or **thirty-five cubic feet or** more of **[**friable asbestos containing**]** **regulated asbestos-containing** materials from buildings and other air contaminant sources, or to demolish buildings and other air contaminant sources containing **[**ten**]** **one hundred sixty** square feet or **[**sixteen**]** **two hundred sixty** linear feet or **thirty-five cubic feet or** more **of regulated asbestos-containing materials**;

(13) "Asbestos abatement supervisor", an individual who directs, controls, or supervises others in asbestos abatement projects;

(14) "Asbestos abatement worker", an individual who engages in asbestos abatement projects;

(15) "Asbestos air sampling professional", an individual who by qualifications and experience is proficient in asbestos abatement air monitoring. The individual shall conduct,

oversee or be responsible for air monitoring of asbestos abatement projects before, during and after the project has been completed;

(16) "Asbestos air sampling technician", an individual who has been trained by an air sampling professional to do air monitoring. Such individual conducts air monitoring of an asbestos abatement project before, during and after the project has been completed;

(17) "**[**Asbestos containing**] asbestos-containing** material", any material or product which contains more than one percent asbestos**[**, by weight**]**;

(18) "Class A source", either a class A1, A2 or A3 source as defined in this section;

(19) "Class A1 source", any air contaminant source with the potential to emit equal to or greater than one hundred tons per year of an air contaminant;

(20) "Class A2 source", any air contaminant source, which is not a class A1 source, and with the potential, air cleaning devices not considered, to emit equal to or greater than one hundred tons per year of an air contaminant;

(21) "Class A3 source", any air contaminant source which emits or has the potential to emit, ten tons per year or more of any hazardous air pollutant or twenty-five tons of any combination of hazardous air pollutants, or as defined pursuant to section 112 of the federal Clean Air Act, as amended, 42 U.S.C. 7412;

(22) "Class B source", any air contaminant source with the potential, air cleaning devices not considered, to emit equal to or greater than the de minimis amounts of an air contaminant established by the commission, but not a class A source;

(23) "Commission", the air conservation commission of the state of Missouri created in section 643.040;

(24) "Competent person", as defined in the United States Occupational Safety and Health Administration's (OSHA) standard 29 CFR **[**1926.58**] 1926.1101** (b). Such person shall also be a certified asbestos abatement supervisor;

(25) "Conference, conciliation and persuasion", a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

(26) "De minimis source", any air contaminant source with a potential to emit an air contaminant, air cleaning devices not considered, less than that established by the commission as de minimis for the air contaminant;

(27) "Department", the department of natural resources of the state of Missouri;

(28) "Director", the director of the department of natural resources;

(29) "Emergency asbestos project", an asbestos project that must be undertaken immediately to prevent imminent, severe, human exposure or to restore essential facility operation;

(30) "Emission", the discharge or release into the atmosphere of one or more air contaminants;

(31) "Emission control regulations", limitations on the emission of air contaminants into the ambient air;

(32) "Friable **[**asbestos containing**] asbestos-containing** material", any **[**asbestos containing material which is applied to ceilings, walls, structural members, piping, ductwork or any other part of a building or other air contaminant sources and which, when dry, may be crumbled, pulverized or reduced to powder by hand pressure**] material containing more than one percent, as determined by either the method specified in appendix E, section 1 Polarized Light Microscopy in 40 CFR Part 61, Subpart M or EPA/600/R-93/116 Method for the Determination of Asbestos in Bulk Building Materials, asbestos that, when dry, can be crumbled, pulverized or reduced to powder by hand pressure;**

(33) "Grinding", to reduce to powder or small fragments and includes mechanical chipping or drilling;

[(33)**] (34)** "Inspector", an individual**[**, under AHERA,**]** who collects and assimilates information used to determine whether **[**asbestos containing**] asbestos-containing** material is present in a building or other air contaminant sources;

[(34)**] (35)** "Management planner", an individual, under AHERA, who devises and writes plans for asbestos abatement;

[(35)**] (36)** "Minor violation", a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;

[(36)**] (37)** "Nonattainment area", any area designated by the governor as a "nonattainment area" as defined in the federal Clean Air Act, as amended, 42 U.S.C. 7501**;**

(38) "Nonfriable asbestos-containing material", any material containing more than one percent asbestos as determined by either the method specified in appendix E, section 1 Polarized Light Microscopy in 40 CFR Part 61, Subpart M or EPA/600/R-93/116 Method for the Determination of Asbestos in Bulk Building Materials, that, when dry, cannot be crumbled, pulverized or reduced to powder by hand pressure;

[(37)**] (39)** "Person", any individual, partnership, copartnership, firm, company, or public or private corporation, association, joint stock company, trust, estate, political subdivision, or any agency, board, department, or bureau of the state or federal government, or any other legal entity whatever which is recognized by law as the subject of rights and duties;

[(38)**] (40) "Regulated asbestos-containing material" or "RACM":**

(a) Friable asbestos-containing material;

(b) Category I nonfriable asbestos-containing material that will be or has been subjected to sanding, grinding, cutting, or abrading; or

(c) Category II nonfriable asbestos-containing material that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations;

(41) "School district", seven-director districts, urban school districts, and metropolitan school districts, as defined in section 160.011;

(42) "Small business", for the purpose of sections 643.010 to **[**643.190**] 643.355**, a small business shall include any business regulated under this chapter, which is not a class A source and which employs less than one hundred people and emits less than fifty tons of any regulated pollutant per year and less than seventy-five tons of all regulated pollutants or as otherwise defined by the commission by rule.

643.040. AIR CONSERVATION COMMISSION CREATED — MEMBERS, TERMS, EXPENSES, MEETINGS. — 1. There is created hereby an air pollution control agency to be known as the "Air Conservation Commission of the State of Missouri", whose domicile for the purposes of sections 643.010 to **[**643.190**] 643.355** is the department of natural resources of the state of Missouri. The commission shall consist of seven members appointed by the governor, with the advice and consent of the senate. No more than four of the members shall belong to the same political party and no two members shall be a resident of and domiciled in the same senatorial district. At the first meeting of the commission and at yearly intervals thereafter, the members shall select from among themselves a chairman and a vice chairman.

2. All members shall be representative of the general interest of the public and shall have an interest in and knowledge of air conservation and the effects and control of air contaminants. At least three of such members shall represent agricultural, industrial and labor interests, respectively. The governor shall not appoint any other person who has a substantial interest as defined in section 105.450 in any business entity regulated under this chapter or any business entity which would be regulated under this chapter if located in Missouri. The commission shall establish rules of procedure which specify when members shall exempt themselves from

participating in discussions and from voting on issues before the commission due to potential conflict of interest.

3. The members' terms of office shall be four years and until their successors are selected and qualified, except that the terms of those first appointed shall be staggered to expire at intervals of one, two and three years after the date of appointment as designated by the governor at the time of appointment. There is no limitation of the number of terms any appointed member may serve. If a vacancy occurs the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. The governor may remove any appointed member for cause. The members of the commission shall be reimbursed for travel and other expenses actually and necessarily incurred in the performance of their duties.

4. The commission shall hold at least nine regular meetings each year and such additional regular meetings as the chairman deems desirable at a place and time to be fixed by the chairman. Special meetings may be called by three members of the commission upon delivery of written notice to each member of the commission. Reasonable written notice of all meetings shall be given to all members of the commission. Four members of the commission shall constitute a quorum. All powers and duties conferred upon members of the commission shall be exercised personally by the members and not by alternates or representatives. All actions of the commission shall be taken at meetings open to the public, except as provided in chapter 610. Any member absent from four regular commission meetings per calendar year for any cause whatsoever shall be deemed to have resigned and the vacancy shall be filled immediately in accordance with subsection 1 and subsection 3 of this section.

643.050. POWERS AND DUTIES OF COMMISSION — RULES, PROCEDURE. — 1. In addition to any other powers vested in it by law the commission shall have the following powers:

(1) Adopt, promulgate, amend and repeal rules and regulations consistent with the general intent and purposes of sections 643.010 to **[**643.190**] 643.355**, chapter 536, and Titles V and VI of the federal Clean Air Act, as amended, 42 U.S.C. 7661, et seq., including but not limited to:

(a) Regulation of use of equipment known to be a source of air contamination;

(b) Establishment of maximum quantities of air contaminants that may be emitted from any air contaminant source; and

(c) Regulations necessary to enforce the provisions of Title VI of the Clean Air Act, as amended, 42 U.S.C. 7671, et seq., regarding any Class I or Class II substances as defined therein;

(2) After holding public hearings in accordance with section 643.070, establish areas of the state and prescribe air quality standards for such areas giving due recognition to variations, if any, in the characteristics of different areas of the state which may be deemed by the commission to be relevant;

(3) (a) To require persons engaged in operations which result in air pollution to monitor or test emissions and to file reports containing information relating to rate, period of emission and composition of effluent;

(b) Require submission to the director for approval of plans and specifications for any article, machine, equipment, device, or other contrivance specified by regulation the use of which may cause or control the issuance of air contaminants; but any person responsible for complying with the standards established under sections 643.010 to **[**643.190**] 643.355** shall determine, unless found by the director to be inadequate, the means, methods, processes, equipment and operation to meet the established standards;

(4) Hold hearings upon appeals from orders of the director or from any other actions or determinations of the director hereunder for which provision is made for appeal, and in connection therewith, issue subpoenas requiring the attendance of witnesses and the production of evidence reasonably relating to the hearing;

(5) Enter such order or determination as may be necessary to effectuate the purposes of sections 643.010 to **[**643.190**] 643.355**. In making its orders and determinations hereunder, the commission shall exercise a sound discretion in weighing the equities involved and the

advantages and disadvantages to the person involved and to those affected by air contaminants emitted by such person as set out in section 643.030. If any small business, as defined by section 643.020, requests information on what would constitute compliance with the requirements of sections 643.010 to **[**643.190**] 643.355** or any order or determination of the department or commission, the department shall respond with written criteria to inform the small business of the actions necessary for compliance. No enforcement action shall be undertaken by the department or commission until the small business has had a period of time, negotiated with the department, to achieve compliance;

(6) Cause to be instituted in a court of competent jurisdiction legal proceedings to compel compliance with any final order or determination entered by the commission or the director;

(7) Settle or compromise in its discretion, as it may deem advantageous to the state, any suit for recovery of any penalty or for compelling compliance with the provisions of any rule;

(8) Develop such facts and make such investigations as are consistent with the purposes of sections 643.010 to **[**643.190**] 643.355**, and, in connection therewith, to enter or authorize any representative of the department to enter at all reasonable times and upon reasonable notice in or upon any private or public property for the purpose of inspecting or investigating any condition which the commission or director shall have probable cause to believe to be an air contaminant source **or upon any private or public property having material information relevant to said air contaminant source**. The results of any such investigation shall be reduced to writing, and a copy thereof shall be furnished to the owner or operator of the property. No person shall refuse entry or access, requested for purposes of inspection under this provision, to an authorized representative of the department who presents appropriate credentials, nor obstruct or hamper the representative in carrying out the inspection. A suitably restricted search warrant, upon a showing of probable cause in writing and upon oath, shall be issued by any judge having jurisdiction to any such representative for the purpose of enabling him to make such inspection;

(9) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise, with any educational institution, experiment station, or any board, department, or other agency of any political subdivision or state or the federal government;

(10) Classify and identify air contaminants; and

(11) Hold public hearings as required by sections 643.010 to **[**643.190**] 643.355**.

2. 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.

3. The commission shall have the following duties with respect to the prevention, abatement and control of air pollution:

(1) Prepare and develop a general comprehensive plan for the prevention, abatement and control of air pollution;

(2) Encourage voluntary cooperation by persons or affected groups to achieve the purposes of sections 643.010 to **[**643.190**] 643.355**;

(3) Encourage political subdivisions to handle air pollution problems within their respective jurisdictions to the extent possible and practicable and provide assistance to political subdivisions;

(4) Encourage and conduct studies, investigations and research;

(5) Collect and disseminate information and conduct education and training programs;

(6) Advise, consult and cooperate with other agencies of the state, political subdivisions, industries, other states and the federal government, and with interested persons or groups;

(7) Represent the state of Missouri in all matters pertaining to interstate air pollution including the negotiations of interstate compacts or agreements.

4. Nothing contained in sections 643.010 to **[**643.190**] 643.355** shall be deemed to grant to the commission or department any jurisdiction or authority with respect to air pollution existing solely within commercial and industrial plants, works, or shops or to affect any aspect of employer-employee relationships as to health and safety hazards.

5. Any information relating to secret processes or methods of manufacture or production discovered through any communication required under this section shall be kept confidential.

643.060. POWERS AND DUTIES OF DIRECTOR. — In addition to any other powers vested by law, the director shall have the following powers and duties:

(1) Retain, employ, provide for, and compensate, within appropriations available therefor, such consultants, assistants, deputies, clerks, and other employees on a full- or part-time basis as may be necessary to carry out the provisions of sections 643.010 to **[**643.190**] 643.355** and prescribe the times at which they shall be appointed and their powers and duties;

(2) Accept, receive and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of sections 643.010 to **[**643.190**] 643.355**. The director shall apply for all available grants and funds authorized and distributed pursuant to Title XI of the federal Clean Air Act, as amended, 29 U.S.C. 1662e, for training, assistance and payments to eligible individuals. The director shall report annually to the governor and the general assembly, the amount of revenue received under Title XI of the Clean Air Act and the distribution of such funds to eligible persons. Funds received by the director pursuant to this section shall be deposited with the state treasurer and held and disbursed by him in accordance with the appropriations of the general assembly. The director is authorized to enter into contracts as he may deem necessary for carrying out the provisions of sections 643.010 to **[**643.190**] 643.355**;

(3) Budget and receive duly appropriated moneys for expenditures to carry out the provisions and purposes of sections 643.010 to **[**643.190**] 643.355**;

(4) Administer and enforce sections 643.010 to **[**643.190**] 643.355**, investigate complaints, issue orders and take all actions necessary to implement sections 643.010 to **[**643.190**] 643.355**;

(5) Receive and act upon reports, plans, specifications and applications submitted under rules promulgated by the commission. Any person aggrieved by any action of the director under this provision shall be entitled to a hearing before the commission as provided in section 643.080. The commission may sustain, reverse, or modify any action of the director taken under this provision, or make such other order as the commission shall deem appropriate under the circumstances.

643.079. FEES, AMOUNT — DEPOSIT OF MONEYS, WHERE, SUBACCOUNT TO BE MAINTAINED — CIVIL ACTION FOR FAILURE TO REMIT FEES, EFFECT UPON PERMIT — AGENCIES, DETERMINATION OF FEES. — 1. Any air contaminant source required to obtain a permit issued under sections 643.010 to **[**643.190**] 643.355** shall pay annually beginning April 1, 1993, a fee as provided herein. For the first year the fee shall be twenty-five dollars per ton of each regulated air contaminant emitted. Thereafter, the fee shall be set every three years by the commission by rule and shall be at least twenty-five dollars per ton of regulated air contaminant emitted but not more than forty dollars per ton of regulated air contaminant emitted in the previous calendar year. If necessary, the commission may make annual adjustments to the fee by rule. The fee shall be set at an amount consistent with the need to fund the reasonable cost of administering sections 643.010 to **[**643.190**] 643.355**, taking into account other moneys received pursuant to sections 643.010 to **[**643.190**] 643.355**. For the purpose of determining the amount of air contaminant emissions on which the fees authorized under this section are assessed, a facility shall be considered one source under the definition of subsection 2 of section 643.078, except that a facility with multiple operating permits shall pay the emission fees authorized under this section separately for air contaminants emitted under each individual permit.

2. A source which produces charcoal from wood shall pay an annual emission fee under this subsection in lieu of the fee established in subsection 1 of this section. The fee shall be based upon a maximum fee of twenty-five dollars per ton and applied upon each ton of regulated air contaminant emitted for the first four thousand tons of each contaminant emitted in the amount

established by the commission pursuant to subsection 1 of this section, reduced according to the following schedule:

(1) For fees payable under this subsection in the years 1993 and 1994, the fee shall be reduced by one hundred percent;

(2) For fees payable under this subsection in the years 1995, 1996 and 1997, the fee shall be reduced by eighty percent;

(3) For fees payable under this subsection in the years 1998, 1999 and 2000, the fee shall be reduced by sixty percent.

3. The fees imposed in subsection 2 of this section shall not be imposed or collected after the year 2000 unless the general assembly reimposes the fee.

4. Each air contaminant source with a permit issued under sections 643.010 to **[**643.190**] 643.355** shall pay the fee for the first four thousand tons of each regulated air contaminant emitted each year but no air contaminant source shall pay fees on total emissions of regulated air contaminants in excess of twelve thousand tons in any calendar year. A permitted air contaminant source which emitted less than one ton of all regulated pollutants shall pay a fee equal to the amount per ton set by the commission. An air contaminant source which pays emission fees to a holder of a certificate of authority issued pursuant to section 643.140 may deduct such fees from any amount due under this section. The fees imposed in this section shall not be applied to carbon oxide emissions. The fees imposed in subsection 1 and this subsection shall not be applied to sulfur dioxide emissions from any Phase I affected unit subject to the requirements of Title IV, Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, et seq., any sooner than January 1, 2000. The fees imposed on emissions from Phase I affected units shall be consistent with and shall not exceed the provisions of the federal Clean Air Act, as amended, and the regulations promulgated thereunder. Any such fee on emissions from any Phase I affected unit shall be reduced by the amount of the service fee paid by that Phase I affected unit pursuant to subsection 8 of this section in that year. Any fees that may be imposed on Phase I sources shall follow the procedures set forth in subsection 1 and this subsection and shall not be applied retroactively.

5. Moneys collected under this section shall be transmitted to the director of revenue for deposit in appropriate subaccounts of the natural resources protection fund created in section 640.220. A subaccount shall be maintained for fees paid by air contaminant sources which are required to be permitted under Title V of the federal Clean Air Act, as amended, 42 U.S.C. Section 7661, et seq., and used, upon appropriation, to fund activities by the department to implement the operating permits program authorized by Title V of the federal Clean Air Act, as amended. Another subaccount shall be maintained for fees paid by air contaminant sources which are not required to be permitted under Title V of the federal Clean Air Act as amended, and used, upon appropriation, to fund other air pollution control program activities. Another subaccount shall be maintained for service fees paid under subsection 8 of this section by Phase I affected units which are subject to the requirements of Title IV, Section 404, of the federal Clean Air Act Amendments of 1990, as amended, 42 U.S.C. 7651, and used, upon appropriation, to fund air pollution control program activities. The provisions of section 33.080 to the contrary notwithstanding, moneys in the fund shall not revert to general revenue at the end of each biennium. Interest earned by moneys in the subaccounts shall be retained in the subaccounts. The per-ton fees established under subsection 1 of this section may be adjusted annually, consistent with the need to fund the reasonable costs of the program, but shall not be less than twenty-five dollars per ton of regulated air contaminant nor more than forty dollars per ton of regulated air contaminant. The first adjustment shall apply to moneys payable on April 1, 1994, and shall be based upon the general price level for the twelve-month period ending on August thirty-first of the previous calendar year.

6. The department may initiate a civil action in circuit court against any air contaminant source which has not remitted the appropriate fees within thirty days. In any judgment against the source, the department shall be awarded interest at a rate determined pursuant to section

408.030 and reasonable attorney's fees. In any judgment against the department, the source shall be awarded reasonable attorney's fees.

7. The department shall not suspend or revoke a permit for an air contaminant source solely because the source has not submitted the fees pursuant to this section.

8. Any Phase I affected unit which is subject to the requirements of Title IV, Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, shall pay annually beginning April 1, 1993, and terminating December 31, 1999, a service fee for the previous calendar year as provided herein. For the first year, the service fee shall be twenty-five thousand dollars for each Phase I affected generating unit to help fund the administration of sections 643.010 to **[**643.190**] 643.355**. Thereafter, the service fee shall be annually set by the commission by rule, following public hearing, based on an annual allocation prepared by the department showing the details of all costs and expenses upon which such fees are based consistent with the department's reasonable needs to administer and implement sections 643.010 to **[**643.190**] 643.355** and to fulfill its responsibilities with respect to Phase I affected units, but such service fee shall not exceed twenty-five thousand dollars per generating unit. Any such Phase I affected unit which is located on one or more contiguous tracts of land with any Phase II generating unit that pays fees under subsection 1 or subsection 2 of this section shall be exempt from paying service fees under this subsection. A "contiguous tract of land" shall be defined to mean adjacent land, excluding public roads, highways and railroads, which is under the control of or owned by the permit holder and operated as a single enterprise.

9. The department of natural resources shall determine the fees due pursuant to this section by the state of Missouri and its departments, agencies and institutions, including two- and four-year institutions of higher education. The director of the department of natural resources shall forward the various totals due to the joint committee on capital improvements and the directors of the individual departments, agencies and institutions. The departments, as part of the budget process, shall annually request by specific line item appropriation funds to pay said fees and capital funding for projects determined to significantly improve air quality. If the general assembly fails to appropriate funds for emissions fees as specifically requested, the departments, agencies and institutions shall pay said fees from other sources of revenue or funds available. The state of Missouri and its departments, agencies and institutions may receive assistance from the small business technical assistance program established pursuant to section 643.173.

643.080. INVESTIGATIONS, WHEN MADE — VIOLATION, HOW ELIMINATED — HEARING, PROCEDURE — FINAL ORDER, NOTICE OF. — 1. The director shall investigate alleged violations of sections 643.010 to **[**643.190**] 643.355** or any rule promulgated hereunder or any term or condition of any permit and may cause to be made such other investigations as he shall deem advisable. The department shall assume the costs of investigation of alleged violations. The identity of the person who filed the complaint shall be made available consistent with chapter 610 and other provisions, as applicable.

2. If, in the opinion of the director, the investigation yields reasonable grounds to believe that a violation of **[**section 577.200**] sections 643.010 to 643.355** is occurring or has occurred, he shall refer such information to either or both the attorney general or the county prosecutor of the county where the violations are alleged to have occurred.

3. If, in the opinion of the director, the investigation discloses that a violation does exist which would not be a criminal violation, he may by conference, conciliation and persuasion endeavor to eliminate the violation.

4. In case of the failure by conference, conciliation and persuasion to correct or remedy any violation, the director may order abatement, suspend or revoke a permit, whichever action or actions the director deems appropriate. The director shall cause to have issued and served upon the person a written notice of such order together with a copy of the order, which shall specify the provisions of sections 643.010 to **[**643.190**] 643.355** or the rule or the condition of the permit of which the person is alleged to be in violation, and a statement of the manner in, and the extent

to which the person is alleged to be in violation. Service may be made upon any person within or without the state by registered mail, return receipt requested. Any person against whom the director issues an order may appeal the order to the commission within thirty days, and the appeal shall stay the enforcement of such order until final determination by the commission. The commission shall set a hearing on a day not less than thirty days after the date of the request. The commission may sustain, reverse, or modify the director's order, or make such other order as the commission deems appropriate under the circumstances. If any order issued by the director is not appealed within the time herein provided, the order becomes final and may be enforced as provided in section 643.151.

5. When the commission schedules a matter for hearing, the petitioner on appeal may appear at the hearing in person or by counsel, and may make oral argument, offer testimony and evidence or cross-examine witnesses.

6. After due consideration of the record, or upon default in appearance of the petitioner on the return day specified in the notice given as provided in subsection 4 of this section, the commission shall issue and enter the final order, or make such final determination as it shall deem appropriate under the circumstances, and it shall immediately notify the petitioner or respondent thereof in writing by certified or registered mail.

7. Any final order or determination or other final action by the commission shall be approved in writing by at least four members of the commission.

643.130. JUDICIAL REVIEW. — All final orders or determinations of the commission or the director hereunder shall be subject to judicial review pursuant to the provisions of sections 536.100 to 536.140**, except that, the provisions of section 536.110 notwithstanding, all actions seeking judicial review of any final determination of the commission or the director shall be filed in the court of appeals instead of in the circuit court**. No judicial review shall be available hereunder, however, unless and until all administrative remedies are exhausted.

643.191. VIOLATION OF CERTAIN REQUIREMENTS UNLAWFUL, PENALTY — FALSE STATEMENTS UNLAWFUL, PENALTY. — 1. It is unlawful for any person to knowingly violate any applicable standard, limitation, permit condition or any fee or filing requirement promulgated pursuant to sections 643.010 to **[**643.190**] 643.355** or any rule promulgated thereunder. Any person violating the provisions of this subsection shall, upon conviction thereof, be subject to a fine of not more than ten thousand dollars per day of violation or part thereof.

2. It is unlawful for any person to knowingly make a false statement, representation or certification in any form, in any notice or report required by a permit or to knowingly render inaccurate any monitoring device or method required to be maintained by the permitting authority under sections 643.010 to **[**643.190**] 643.355**. Any person violating the provisions of this subsection shall, upon conviction thereof, be subject to a fine of not more than ten thousand dollars for each instance of violation.

643.225. RULES FOR ASBESTOS ABATEMENT PROJECTS, STANDARDS AND EXAMINATIONS — CERTIFICATION REQUIREMENTS — APPLICATION — EXAMINATION, CONTENT — CERTIFICATE EXPIRES, WHEN — FEES — RENEWAL OF CERTIFICATE REQUIREMENTS — REFRESHER COURSE — FAILURE TO PASS EXAMINATION, MAY REPEAT EXAM, WHEN — FEE FOR RENEWAL. — 1. The provisions of sections 643.225 to 643.250 shall apply to all **[**asbestos abatement**]** projects **subject to 40 CFR Part 61, Subpart M as adopted by 10 CSR 10-6.080**. The commission shall promulgate rules and regulations it deems necessary to implement and administer the provisions of sections 643.225 to 643.250, including requirements, procedures and standards relating to asbestos projects, as well as the authority to require corrective measures to be taken in asbestos abatement**, renovation, or demolition** projects as are deemed necessary to protect public health and the environment. The director shall

establish any examinations for certification required by this section and shall hold such examinations at times and places as determined by the director.

2. Except as otherwise provided in sections 643.225 to 643.250, no individual shall engage in an asbestos abatement project, inspection, management plan, abatement project design or asbestos air sampling unless the person has been issued a certificate by the director, or by the commission after appeal, for that purpose.

3. In any application made to the director to obtain such certification as an inspector, management planner, abatement project designer, supervisor, contractor or worker from the department, the applicant shall include his diploma providing proof of successful completion of either a state accredited or United States Environmental Protection Agency (EPA) accredited training course as described in section 643.228. In addition, an applicant for certification as a management planner shall first be certified as an inspector. All applicants for certification as an inspector, management planner, abatement project designer, supervisor, contractor or worker shall successfully pass a state examination on Missouri state asbestos statutes and rules relating to asbestos. Certification issued hereunder shall expire one year from its effective date. Individuals applying for state certification as an asbestos air sampling professional shall have the following credentials:

(1) A bachelor of science degree in industrial hygiene plus one year of experience in the field; or

(2) A master of science degree in industrial hygiene; or

(3) Certification as an industrial hygienist as designated by the American Board of Industrial Hygiene; or

(4) Three years of practical experience in the field of industrial hygiene, including significant asbestos air monitoring experience and the completion of a forty-hour asbestos course which includes air monitoring instruction (National Institute of Occupational Safety and Health 582 course on air sampling or equivalent). In addition to these qualifications, the individual must also pass the state of Missouri asbestos examination. All asbestos air sampling technicians shall be trained and overseen by an asbestos air sampling professional and shall meet the requirements of training found in OSHA's 29 CFR **[**1926.58**] 1926.1101**. Certification under this section as an **[**AHERA asbestos**]** abatement project designer does not qualify an individual as an architect, engineer or land surveyor, as defined in chapter 327.

4. An application fee of seventy-five dollars shall be assessed for each category, except asbestos abatement worker, to cover administrative costs incurred. An application fee of twenty-five dollars shall be assessed for each asbestos abatement worker to cover administrative costs incurred. A fee of twenty-five dollars shall be assessed per state examination.

5. In order to qualify for renewal of a certificate, an individual shall have successfully completed an annual refresher course from **[**an Environmental Protection Agency or**] a** state of Missouri accredited training program. For each discipline, the refresher course shall review and discuss current federal and state statute and rule developments, state-of-the-art procedures and key aspects of the initial training course, as determined by the state of Missouri. For all categories except inspectors, individuals shall complete a one-day annual refresher training course for recertification. Refresher courses for inspectors shall be at least a half-day in length. Management planners shall attend the inspector refresher course, plus an additional half-day on management planning. All refresher courses shall require an individual to successfully pass an examination upon completion of the course. In the case of significant changes in Missouri state asbestos statutes or rules, an individual shall also be required to take and successfully pass an updated Missouri state asbestos examination. An individual who has failed the Missouri state asbestos examination may retake it on the next scheduled examination date. If **[**his certification has lapsed for more than twenty-four months, he**] an individual has not successfully completed the annual refresher course within twelve months of the expiration of his or her certification, the individual** shall be required to retake the course in his **or her** specialty area **as** described in this section. Failure to comply with the requirements for renewal of certification

in this section will result in decertification. In no event shall certification or recertification constitute permission to violate sections 643.225 to 643.250 or any standard or rule promulgated under sections 643.225 to 643.250.

6. A fee of five dollars shall be paid to the state for renewal of certificates to cover administrative costs.

[7. The provisions of subsections 2 through 6 of this section, section 643.228, subdivision (4) of subsection 1 of section 643.230, sections 643.232 and 643.235, subdivisions (1) to (3) of subsection 1 of section 643.237, and subsection 2 of section 643.237 shall not apply to a person that is subject to requirements and applicable standards of the United States Environmental Protection Agency (EPA) and the United States Occupational Safety and Health Administration's (OSHA) 29 Code of Federal Regulations 1926.58 and which engages in asbestos abatement projects as part of normal operations in the facility solely at its own place or places of business. A person shall receive an exemption upon submitting to the director, on a form provided by the department, documentation of the training provided to their employees to meet the requirements of applicable OSHA and EPA rules and regulations and the type of asbestos abatement projects which constitute normal operations performed by the applicant. If the application does not meet the requirements of this subsection and the rules and regulations promulgated by the department, the applicant shall be notified, within one hundred eighty days of the receipt of the application, that his exemption has been revoked. An applicant may appeal the revocation of an exemption to the commission within thirty days of the notice of revocation. This exemption shall not apply to asbestos abatement contractors, to those persons who the commission by rule determines provide a service to the public in its place or places of business as the economic foundation of the facility, or to those persons subject to the requirements of the federal Asbestos Hazard Emergency Response Act of 1986 (P.L. 99-519). A representative of the department shall be permitted to attend, monitor and evaluate any training program provided by the exempted person. Such evaluations may be conducted without prior notice. Refusal to allow such an evaluation is sufficient grounds for loss of exemption status.

8. A fee of two hundred fifty dollars shall be submitted with the application for exemption. This is a one-time fee. Exempted persons shall submit to the director changes in curricula or other significant revisions to the training program as they occur.**]**

643.232. ASBESTOS ABATEMENT CONTRACTOR REQUIRED TO REGISTER ANNUALLY, QUALIFICATIONS — PROJECT REQUIREMENTS — REGISTRATION FEE. — 1. All asbestos abatement contractors prior to engaging in asbestos abatement projects shall:

(1) Register with the department and reregister annually as provided by rule;

(2) Submit an application for registration on a form developed by the department;

(3) Use only those individuals that have been certified or trained in accordance with sections 643.225 to 643.250.

2. During asbestos abatement projects, all contractors shall:

(1) Comply with applicable United States Environmental Protection Agency regulations and guidelines, the standards for worker protection promulgated by the United States Occupational Safety and Health Administration in 29 CFR 1910.1001, 1910.1200 and **[**1926.58**] 1926.1101**, the provisions of sections 643.225 to 643.250 and the rules and regulations promulgated thereunder. It is not intended that the director shall enforce OSHA requirements but shall have the authority to deny, revoke, or suspend registration on the basis of finding of violation by OSHA;

(2) Ensure that a competent person be on the asbestos abatement project site directing all aspects of the project during the hours that the project is being conducted.

3. A registration fee of one thousand dollars shall be paid by the person to the state prior to registration.

643.237. PROJECTS REQUIRING SPECIAL APPLICATION, FORM, CONTENTS — PROCEDURE — FEE, EXEMPTIONS FROM FEE — EMERGENCY PROJECTS, PROCEDURE — REVISION OF PROJECT PLANS, NOTIFICATION OF DEPARTMENT REQUIRED. — 1. Any person undertaking an asbestos abatement project of a magnitude greater than or equal to one hundred sixty square feet **[**or**] ,** two hundred sixty linear feet**, or thirty-five cubic feet or regulated demolition project** shall meet the following requirements:

(1) The person shall submit an application for asbestos abatement **or demolition** to the department for review at least **[**twenty**] ten working** days in advance. The application shall be in the form required by the department **and shall include a copy of an asbestos inspection survey which includes but is not limited to sample analysis results, quantities of asbestos materials identified, and documentation the inspection was conducted by a certified asbestos inspector**. Such application shall include the name and address of the applicant, a description of the proposed project and any other information as may be required by the commission and provide proof to the department that all employees engaged in an asbestos abatement project are in compliance with sections 643.225 and 643.228;

(2) Persons undertaking an asbestos abatement project shall notify the department within sixty days of the completion of the project in the form required by the department;

(3) Persons undertaking an emergency asbestos abatement project of this magnitude shall submit a notification to the department within twenty-four hours of the onset of the emergency. An application for permit to abate shall be submitted to the department within seven days of the onset of the emergency;

(4) A fee of one hundred dollars shall be paid for review of each **demolition or** asbestos abatement project notification of this magnitude;

(5) Any person undertaking an asbestos abatement **or demolition** project in the jurisdiction of an authorized local air pollution control agency shall be exempt from an application fee if the authorized local agency also imposes an application fee.

2. **[**Any person undertaking an asbestos abatement project of a magnitude less than one hundred sixty square feet or two hundred sixty linear feet, but greater than ten square feet or sixteen linear feet shall meet the following requirements:

(1) The person shall submit notification to the department for review at least twenty days in advance. The notification shall be in the form required by the department. Such notification shall include the name and address of the applicant, a description of the proposed project and any other information as may be required by the department and provide proof to the department that all employees engaged in an asbestos abatement project are in compliance with sections 643.225 and 643.228. In addition, the person shall post for inspection, at the site, current certificates of all individuals engaged in the asbestos abatement project as well as proof of the person's current registration;

(2) Persons undertaking an asbestos abatement project shall notify the department within sixty days of the completion of the project in the form required by the department;

(3) Persons undertaking an emergency asbestos abatement project of this magnitude shall submit notification to the department within twenty-four hours of the onset of the emergency.

3.**]** Any person who submits an asbestos abatement **or demolition** project notification to the department shall submit actual project dates and times for his project. If the dates and times are revised on this project as submitted to the department, the person is responsible to notify the department at least twenty-four hours prior to the original starting date of the project by telephone and then followup with a written amendment stating the change in date and time. If the person does not comply with this procedure, he shall be held in violation of the notification requirements found in this section. This requirement does not change the reporting requirements for notification, post notification and emergency projects specified in this section.

643.240. FRIABLE MATERIAL SUBJECT TO REGULATION — AIR SAMPLE ANALYSIS, HOW CONDUCTED. — 1. Before commencement of an asbestos abatement project, persons shall make

all reasonable efforts to minimize the spread of friable asbestos-containing materials to uncontaminated areas.

2. Any asbestos-containing material that will be rendered friable during the process of removal, encapsulation, enclosure or demolition is subject to all applicable federal and state regulations.

3. Analysis of asbestos air samples shall be conducted according to the United States Occupational Safety and Health Administration's (OSHA) standards in 29 CFR **[**1926.58**] 1926.1101 or the United States Environmental Protection Agency standards in 40 CFR Part 763, Subpart E**.

643.242. INSPECTION OF PROJECTS, WHEN — INSPECTION FEE — POSTPONEMENT OF PROJECT, NOTICE TO DEPARTMENT, FAILURE TO NOTIFY, EFFECT — EXEMPTION FROM FEE FOR LOCAL AIR POLLUTION CONTROL AGENCY, WHEN. — 1. Asbestos abatement projects of a magnitude greater than or equal to **[**ten**] one hundred sixty** square feet or **[**sixteen**] two hundred sixty** linear feet **or thirty-five cubic feet or all regulated demolition projects** are subject to inspection.

2. The commission shall be authorized to assess a fee of not more than one hundred dollars for each on-site inspection of **an** asbestos abatement **[**projects**] or demolition project**. Such fees would not be assessed for more than three on-site inspections during the period an actual abatement project is in progress. Failure of the asbestos abatement contractor to notify the department of project postponement may result in the assessment of an inspection fee in the event of an on-site visit by the department.

3. Any person undertaking an asbestos abatement project **or regulated demolition project** in the jurisdiction of an authorized local air pollution control agency shall be exempt from an inspection fee if the authorized local agency also imposes an inspection fee.

643.245. NATURAL RESOURCES PROTECTION FUND — AIR POLLUTION ASBESTOS FEE SUBACCOUNT CREATED — PURPOSE — LAPSE INTO GENERAL REVENUE PROHIBITED — FUND DEPOSITED WHERE, BY STATE TREASURER, INTEREST CREDITED TO FUND. — 1. All moneys received pursuant to sections 643.225 to **[**643.250**] 643.245** and any other moneys so designated shall be placed in the state treasury and credited to the "Natural Resources Protection Fund — Air Pollution Asbestos Fee Subaccount", which is hereby created. Such moneys received pursuant to sections 643.225 to **[**643.250**] 643.245** shall, subject to appropriation, be used solely for the purpose of administering this chapter. Any unexpended balance in such fund at the end of any appropriation period shall not be transferred to the general revenue fund of the state treasury and shall be exempt from the provisions of section 33.080.

2. The state treasurer, with the approval of the board of fund commissioners, is authorized to deposit all of the moneys in any of the qualified state depositories. All such deposits shall be secured in such manner and shall be made upon such terms and conditions as are now and may hereafter be approved by law relative to state deposits. Any interest received on such deposits shall be credited to the natural resources protection fund — air pollution asbestos fee subaccount.

643.250. ENTRY BY DEPARTMENT ON PUBLIC OR PRIVATE PROPERTY FOR REGULATION PURPOSES — REFUSAL TO ALLOW GROUNDS FOR REVOCATION OR INJUNCTIONS, VIOLATIONS OF REGULATIONS, PENALTIES. — 1. Any authorized representative of the department may enter at all reasonable times, in or upon public or private property for purposes required under sections 643.225 to 643.250. **In addition to any other remedy provided by law,** refusal to allow such entry shall be grounds for revocation of registration or injunctive relief.

2. Any person who knowingly violates sections 643.225 to 643.250, or any rule promulgated thereunder, shall, upon conviction, be punished by a fine of not less than twenty-five hundred dollars nor more than twenty-five thousand dollars per day of violation, or by imprisonment for not more than one year, or both. Second and successive convictions of any

person shall be punished by a fine of not more than fifty thousand dollars per day of violation, or by imprisonment for not more than two years, or both.

3. Any person who violates any provision of sections 643.225 to 643.250 may, in addition to any other penalty provided by law, incur a civil penalty in an amount not to exceed ten thousand dollars for each day of violation. The civil penalty shall be in an amount to constitute an actual and substantial economic deterrent to the violation for which the civil penalty is assessed. **[**Any civil penalty paid shall be placed in the natural resources protection fund — air pollution asbestos fee subaccount.**]**

4. Notwithstanding the existence or pursuit of any other remedy provided by sections 643.225 to 643.250, the commission may maintain, in the manner provided by chapter 536, an action in the name of the state of Missouri for injunction or other process against any person to restrain or prevent any violation of the provisions of sections 643.225 to 643.250.

644.036. PUBLIC HEARINGS — RULES AND REGULATIONS, HOW PROMULGATED — LISTINGS UNDER CLEAN WATER ACT, REQUIREMENTS, PROCEDURES. — 1. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held after thirty days' prior notice by advertisement of the date, time and place of the hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed standard, rule or regulation or any amendment or repeal thereof shall also be given by regular mail, at least thirty days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings in accordance with the procedures prescribed by the commission at least forty-five days prior to the scheduled date of the hearing. However, this provision shall not preclude necessary changes during this thirty-day period.

2. At the hearing, opportunity to be heard by the commission with respect to the subject thereof shall be afforded any interested person upon written request to the commission, addressed to the director, not later than seven days prior to the hearing, and may be afforded to other persons if convenient. In addition, any interested persons, whether or not heard, may submit, within seven days subsequent to the hearings, a written statement of their views. The commission may solicit the views, in writing, of persons who may be affected by, or interested in, proposed rules and regulations, or standards. Any person heard or represented at the hearing or making written request for notice shall be given written notice of the action of the commission with respect to the subject thereof.

3. Any standard, rule or regulation or amendment or repeal thereof shall not be deemed adopted or in force and effect until it has been approved in writing by at least four members of the commission. A standard, rule or regulation or an amendment or repeal thereof shall not become effective until a certified copy thereof has been filed with the secretary of state as provided in chapter 536.

4. Unless prohibited by any federal water pollution control act, any standard, rule or regulation or any amendment or repeal thereof which is adopted by the commission may differ in its terms and provisions as between particular types and conditions of water quality standards or of water contaminants, as between particular classes of water contaminant sources, and as between particular waters of the state.

5. Any listing required by Section 303(d) of the federal Clean Water Act, as amended, 33 U.S.C. 1251, et seq., to be sent to the U.S. Environmental Protection Agency for its approval that will result in any waters of the state being classified as impaired shall be adopted by the commission after a public hearing, or series of hearings, held in accordance with the following procedures. The department of natural resources shall publish in at least six regional newspapers, in advance, a notice by advertisement the availability of a proposed list of impaired waters of the state and such notice shall include at least ninety days' advance notice of the date, time, and place of the public hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed list of impaired waters also shall be posted on the department of natural

resources' website and given by regular mail, at least ninety days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings. The proposed list of impaired waters shall identify the water segment, the uses to be made of such waters, the uses impaired, identify the pollutants causing or expected to cause violations of the applicable water quality standards, and provide a summary of the data relied upon to make the preliminary determination. Contemporaneous with the publication of the notice of public hearing, the department shall make available on its website all data and information it relied upon to prepare the proposed list of impaired waters, including a narrative explanation of how the department determined the water segment was impaired. At any time after the public notice and until seven days after the public hearing, the department shall accept written comments on the proposed list of impaired waters. After the public hearing and after all written comments have been submitted, the department shall prepare a written response to all comments and a revised list of impaired waters. The commission shall adopt a list of impaired waters in a public meeting during which the public shall be afforded an opportunity to respond to the department's written response to comments and revised list of impaired waters. Notice of the meeting shall include the date, time, and place of the public meeting and shall provide notice that the commission will give interested persons the opportunity to respond to the department's revised list of impaired waters and written responses to comments. At its discretion, the commission may extend public comment periods or hold additional public hearings on the proposed and revised lists of impaired waters. The commission shall not vote to add to the list of impaired waters any waters not recommended by the department in the proposed or revised lists of impaired waters without granting the public at least thirty additional days to comment on the proposed addition. The list of impaired waters adopted by the commission shall not be deemed to be a rule as defined by section 536.010. The listing of any water segment on the list of impaired waters adopted by the commission shall be subject to judicial review by any adversely affected party under section 536.150. **[**The provisions in this subsection shall expire on August 28, 2010.**]**

644.051. PROHIBITED ACTS — PERMITS REQUIRED, WHEN, FEE — BOND REQUIRED OF PERMIT HOLDERS, WHEN — PERMIT APPLICATION PROCEDURES — RULEMAKING — LIMITATION ON USE OF PERMIT FEE MONEYS — PERMIT SHIELD PROVISIONS. — 1. It is unlawful for any person:

(1) To cause pollution of any waters of the state or to place or cause or permit to be placed any water contaminant in a location where it is reasonably certain to cause pollution of any waters of the state;

(2) To discharge any water contaminants into any waters of the state which reduce the quality of such waters below the water quality standards established by the commission;

(3) To violate any pretreatment and toxic material control regulations, or to discharge any water contaminants into any waters of the state which exceed effluent regulations or permit provisions as established by the commission or required by any federal water pollution control act;

(4) To discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the waters of the state.

2. It shall be unlawful for any person to build, erect, alter, replace, operate, use or maintain any water contaminant or point source in this state that is subject to standards, rules or regulations promulgated pursuant to the provisions of sections 644.006 to 644.141 unless such person holds a permit from the commission, subject to such exceptions as the commission may prescribe by rule or regulation. However, no permit shall be required of any person for any emission into publicly owned treatment facilities or into publicly owned sewer systems tributary to publicly owned treatment works.

3. Every proposed water contaminant or point source which, when constructed or installed or established, will be subject to any federal water pollution control act or sections 644.006 to

644.141 or regulations promulgated pursuant to the provisions of such act shall make application to the director for a permit at least thirty days prior to the initiation of construction or installation or establishment. Every water contaminant or point source in existence when regulations or sections 644.006 to 644.141 become effective shall make application to the director for a permit within sixty days after the regulations or sections 644.006 to 644.141 become effective, whichever shall be earlier. The director shall promptly investigate each application, which investigation shall include such hearings and notice, and consideration of such comments and recommendations as required by sections 644.006 to 644.141 and any federal water pollution control act. If the director determines that the source meets or will meet the requirements of sections 644.006 to 644.141 and the regulations promulgated pursuant thereto, the director shall issue a permit with such conditions as he or she deems necessary to ensure that the source will meet the requirements of sections 644.006 to 644.141 and any federal water pollution control act as it applies to sources in this state. If the director determines that the source does not meet or will not meet the requirements of either act and the regulations pursuant thereto, the director shall deny the permit pursuant to the applicable act and issue any notices required by sections 644.006 to 644.141 and any federal water pollution control act.

4. Before issuing a permit to build or enlarge a water contaminant or point source or reissuing any permit, the director shall issue such notices, conduct such hearings, and consider such factors, comments and recommendations as required by sections 644.006 to 644.141 or any federal water pollution control act. The director shall determine if any state or any provisions of any federal water pollution control act the state is required to enforce, any state or federal effluent limitations or regulations, water quality-related effluent limitations, national standards of performance, toxic and pretreatment standards, or water quality standards which apply to the source, or any such standards in the vicinity of the source, are being exceeded, and shall determine the impact on such water quality standards from the source. The director, in order to effectuate the purposes of sections 644.006 to 644.141, shall deny a permit if the source will violate any such acts, regulations, limitations or standards or will appreciably affect the water quality standards or the water quality standards are being substantially exceeded, unless the permit is issued with such conditions as to make the source comply with such requirements within an acceptable time schedule. Prior to the development or renewal of a general permit or permit by rule, for aquaculture, the director shall convene a meeting or meetings of permit holders and applicants to evaluate the impacts of permits and to discuss any terms and conditions that may be necessary to protect waters of the state. Following the discussions, the director shall finalize a draft permit that considers the comments of the meeting participants and post the draft permit on notice for public comment. The director shall concurrently post with the draft permit an explanation of the draft permit and shall identify types of facilities which are subject to the permit conditions. Affected public or applicants for new general permits, renewed general permits or permits by rule may request a hearing with respect to the new requirements in accordance with this section. If a request for a hearing is received, the commission shall hold a hearing to receive comments on issues of significant technical merit and concerns related to the responsibilities of the Missouri clean water law. The commission shall conduct such hearings in accordance with this section. After consideration of such comments, a final action on the permit shall be rendered. The time between the date of the hearing request and the hearing itself shall not be counted as time elapsed pursuant to subdivision (1) of subsection 13 of this section.

5. The director shall grant or deny the permit within sixty days after all requirements of the Federal Water Pollution Control Act concerning issuance of permits have been satisfied unless the application does not require any permit pursuant to any federal water pollution control act. The director or the commission may require the applicant to provide and maintain such facilities or to conduct such tests and monitor effluents as necessary to determine the nature, extent, quantity or degree of water contaminant discharged or released from the source, establish and maintain records and make reports regarding such determination.

6. The director shall promptly notify the applicant in writing of his or her action and if the permit is denied state the reasons therefor. The applicant may appeal to the commission from the denial of a permit or from any condition in any permit by filing notice of appeal with the commission within thirty days of the notice of denial or issuance of the permit. **After a final action is taken on a new or reissued general permit template, a potential applicant for the general permit who can demonstrate that he or she is or may be adversely affected by any permit term or condition may appeal the terms and conditions of the general permit template within thirty days of the department's issuance of the general permit template.** The commission shall set the matter for hearing not less than thirty days after the notice of appeal is filed. In no event shall a permit constitute permission to violate the law or any standard, rule or regulation promulgated pursuant thereto.

7. In any hearing held pursuant to this section **that involves a permit, license, or registration,** the burden of proof is on the **[**applicant for a permit**] party specified in section 640.012**. Any decision of the commission made pursuant to a hearing held pursuant to this section is subject to judicial review as provided in section 644.071.

8. In any event, no permit issued pursuant to this section shall be issued if properly objected to by the federal government or any agency authorized to object pursuant to any federal water pollution control act unless the application does not require any permit pursuant to any federal water pollution control act.

9. **Permits may be modified, reissued, or terminated at the request of the permittee. All requests shall be in writing and shall contain facts or reasons supporting the request.**

10. Unless a site-specific permit is requested by the applicant, aquaculture facilities shall be governed by a general permit issued pursuant to this section with a fee not to exceed two hundred fifty dollars pursuant to subdivision (5) of subsection 6 of section 644.052. However, any aquaculture facility which materially violates the conditions and requirements of such permit may be required to obtain a site-specific permit.

[10.**] 11.** No manufacturing or processing plant or operating location shall be required to pay more than one operating fee. Operating permits shall be issued for a period not to exceed five years after date of issuance, except that general permits shall be issued for a five-year period, and also except that neither a construction nor an annual permit shall be required for a single residence's waste treatment facilities. Applications for renewal of an operating permit shall be filed at least one hundred eighty days prior to the expiration of the existing permit.

[11.**] 12.** Every permit issued to municipal or any publicly owned treatment works or facility shall require the permittee to provide the clean water commission with adequate notice of any substantial new introductions of water contaminants or pollutants into such works or facility from any source for which such notice is required by sections 644.006 to 644.141 or any federal water pollution control act. Such permit shall also require the permittee to notify the clean water commission of any substantial change in volume or character of water contaminants or pollutants being introduced into its treatment works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility and the anticipated impact of such introduction on the quality or quantity of effluent to be released from such works or facility into waters of the state.

[12.**] 13.** The director or the commission may require the filing or posting of a bond as a condition for the issuance of permits for construction of temporary or future water treatment facilities or facilities that utilize innovative technology for wastewater treatment in an amount determined by the commission to be sufficient to ensure compliance with all provisions of sections 644.006 to 644.141, and any rules or regulations of the commission and any condition as to such construction in the permit. For the purposes of this section, "innovative technology

for wastewater treatment" shall mean a completely new and generally unproven technology in the type or method of its application that bench testing or theory suggest has environmental, efficiency, and cost benefits beyond the standard technologies. No bond shall be required for designs approved by any federal agency or environmental regulatory agency of another state. The bond shall be signed by the applicant as principal, and by a corporate surety licensed to do business in the state of Missouri and approved by the commission. The bond shall remain in effect until the terms and conditions of the permit are met and the provisions of sections 644.006 to 644.141 and rules and regulations promulgated pursuant thereto are complied with.

[13.**] 14.** (1) The department shall issue or deny applications for construction and site-specific operating permits received after January 1, 2001, within one hundred eighty days of the department's receipt of an application. For general construction and operating permit applications received after January 1, 2001, that do not require a public participation process, the department shall issue or deny the requested permits within sixty days of the department's receipt of an application.

(2) If the department fails to issue or deny with good cause a construction or operating permit application within the time frames established in subdivision (1) of this subsection, the department shall refund the full amount of the initial application fee within forty-five days of failure to meet the established time frame. If the department fails to refund the application fee within forty-five days, the refund amount shall accrue interest at a rate established pursuant to section 32.065.

(3) Permit fee disputes may be appealed to the commission within thirty days of the date established in subdivision (2) of this subsection. If the applicant prevails in a permit fee dispute appealed to the commission, the commission may order the director to refund the applicant's permit fee plus interest and reasonable attorney's fees as provided in sections 536.085 and 536.087. A refund of the initial application or annual fee does not waive the applicant's responsibility to pay any annual fees due each year following issuance of a permit.

(4) No later than December 31, 2001, the commission shall promulgate regulations defining shorter review time periods than the time frames established in subdivision (1) of this subsection, when appropriate, for different classes of construction and operating permits. In no case shall commission regulations adopt permit review times that exceed the time frames established in subdivision (1) of this subsection. The department's failure to comply with the commission's permit review time periods shall result in a refund of said permit fees as set forth in subdivision (2) of this subsection. On a semiannual basis, the department shall submit to the commission a report which describes the different classes of permits and reports on the number of days it took the department to issue each permit from the date of receipt of the application and show averages for each different class of permits.

(5) During the department's technical review of the application, the department may request the applicant submit supplemental or additional information necessary for adequate permit review. The department's technical review letter shall contain a sufficient description of the type of additional information needed to comply with the application requirements.

(6) Nothing in this subsection shall be interpreted to mean that inaction on a permit application shall be grounds to violate any provisions of sections 644.006 to 644.141 or any rules promulgated pursuant to sections 644.006 to 644.141.

[14.**] 15.** The department shall respond to all requests for individual certification under Section 401 of the Federal Clean Water Act within the lesser of sixty days or the allowed response period established pursuant to applicable federal regulations without request for an extension period unless such extension is determined by the commission to be necessary to evaluate significant impacts on water quality standards and the commission establishes a timetable for completion of such evaluation in a period of no more than one hundred eighty days.

[15.**] 16.** All permit fees generated pursuant to this chapter shall not be used for the development or expansion of total maximum daily loads studies on either the Missouri or Mississippi rivers.

17. The department shall implement permit shield provisions equivalent to the permit shield provisions implemented by the U.S. Environmental Protection Agency pursuant to the Clean Water Act Section 402(k), 33 U.S.C. 1342(k), and its implementing regulations, for permits issued pursuant to chapter 644.

644.054. FEES, BILLING AND COLLECTION — ADMINISTRATION, GENERALLY — FEES TO BECOME EFFECTIVE, WHEN — FEES TO EXPIRE, WHEN — VARIANCES GRANTED, WHEN — FEE STRUCTURE REVIEW. — 1. Fees imposed in sections 644.052 and 644.053 shall, except for those fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052, become effective October 1, 1990, and shall expire **[**December 31, 2010**] September 1, 2013**. Fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052 shall become effective August 28, 2000, and shall expire on **[**December 31, 2010**] September 1, 2013**. The clean water commission shall promulgate rules and regulations on the procedures for billing and collection. All sums received through the payment of fees shall be placed in the state treasury and credited to an appropriate subaccount of the natural resources protection fund created in section 640.220. Moneys in the subaccount shall be expended, upon appropriation, solely for the administration of sections 644.006 to 644.141. Fees collected pursuant to subsection 10 of section 644.052 by a city, a public sewer district, a public water district or other publicly owned treatment works are state fees. Five percent of the fee revenue collected shall be retained by the city, public sewer district, public water district or other publicly owned treatment works as reimbursement of billing and collection expenses.

2. The commission may grant a variance pursuant to section 644.061 to reduce fees collected pursuant to section 644.052 for facilities that adopt systems or technologies that reduce the discharge of water contaminants substantially below the levels required by commission rules.

3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due on the date of application and on each anniversary date of permit issuance thereafter until the permit is terminated.

4. The director of the department of natural resources shall conduct a comprehensive review of the fee structure in sections 644.052 and 644.053. The review shall include stakeholder meetings in order to solicit stakeholder input. The director shall submit a report to the general assembly by December 31, 2012, which shall include its findings and a recommended plan for the fee structure. The plan shall also include time lines for permit issuance, provisions for expedited permits, and recommendations for any other improved services provided by the fee funding.

644.071. JUDICIAL REVIEW AUTHORIZED. — 1. All final orders or determinations of the commission or the director made pursuant to the provisions of sections 644.006 to 644.141 are subject to judicial review pursuant to the provisions of chapter 536**, except that, the provisions of section 536.110 notwithstanding, all actions seeking judicial review of any final order or determination of the commission or the director shall be filed in the court of appeals instead of in the circuit court**. No judicial review shall be available, however, unless and until all administrative remedies are exhausted.

2. In any suit filed pursuant to section 536.050 concerning the validity of the commission's standards, rules and regulations, the court shall review the record made before the commission to determine the validity and reasonableness of such standards, rules, limitations, and regulations and may hear such additional evidence as it deems necessary.

644.145. AFFORDABILITY FINDING REQUIRED, WHEN — DEFINITIONS — PROCEDURES TO BE ADOPTED — APPEAL OF DETERMINATION. — 1. When issuing permits under this chapter for discharges from combined or separate sanitary sewer systems or publicly-owned treatment works, or when enforcing provisions of this chapter or the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq. pertaining to any portion of a

combined or separate sanitary sewer system or publicly-owned treatment works, the department of natural resources shall make a finding of affordability upon which to base such permits and decisions, to the extent allowable under this chapter and the Federal Water Pollution Control Act.

2. When used in this chapter and in standards, rules and regulations promulgated pursuant to this chapter, the following words and phrases mean:

(1) "Affordability", with respect to payment of a utility bill, a measure of whether an individual customer or household can pay the bill without undue hardship or unreasonable sacrifice in the essential lifestyle or spending patterns of the individual or household, taking into consideration the criteria described in subsection 3 of this section;

(2) "Financial capability", the financial capability of a community to make investments necessary to make water quality-related improvements.

3. The department of natural resources shall adopt procedures by which it will determine whether a permit or decision is affordable. Such determination shall be based upon reasonably available empirical data and shall include an assessment of the affordability of the permit or decision to any private or public person or entity affected by such permit. The determination shall be based upon the following criteria:

(1) A community's financial capability and ability to raise or secure necessary funding;

(2) Affordability of pollution control options for the individuals or households of the community;

(3) An evaluation of the overall costs and environmental benefits of the control technologies;

(4) An inclusion of ways to reduce economic impacts on distressed populations in the community, including but not limited to, low and fixed income populations. This requirement includes but is not limited to:

(a) Allowing adequate time in implementation schedules to mitigate potential adverse impacts on distressed populations resulting from the costs of the improvements and taking into consideration local community economic considerations; and

(b) Allowing for reasonable accommodations for regulated entities when inflexible standards and fines would impose a disproportionate financial hardship in light of the environmental benefits to be gained;

(5) An assessment of other community investments relating to environmental improvements;

(6) An assessment of factors set forth in the United States Environmental Protection Agency's guidance, including but not limited to the "Combined Sewer Overflow Guidance for Financial Capability Assessment and Schedule Development" that may ease the cost burdens of implementing wet weather control plans, including but not limited to small system considerations, the attainability of water quality standards, and the development of wet weather standards; and

(7) An assessment of any other relevant local community economic condition.

4. Prescriptive formulas and measures used in determining financial capability, affordability, and thresholds for expenditure, such as median household income, should not be considered to be the only indicator of a community's ability to implement control technology and shall be viewed in the context of other economic conditions rather than as a threshold to be achieved.

5. If the department of natural resources fails to make a finding of affordability as indicated in this section, the proposed permit or decision shall be null, void and unenforceable.

6. The department of natural resources' findings under this section may be appealed to the commission pursuant to subsection 6 of section 644.051.

701.033. DEPARTMENT OF HEALTH AND SENIOR SERVICES — POWERS AND DUTIES — RULES, PROCEDURE. — 1. The department shall have the power and duty to:

(1) Promulgate such rules and regulations as are necessary to carry out the provisions of sections 701.025 to 701.059;

(2) Cause investigations to be made when a violation of any provision of sections 701.025 to 701.059 or the on-site sewage disposal rules promulgated under sections 701.025 to 701.059 is reported to the department;

(3) Enter at reasonable times and determining probable cause that a violation exists, upon private or public property for the purpose of inspecting and investigating conditions relating to the administration and enforcement of sections 701.025 to 701.059 and the on-site sewage disposal rules promulgated under sections 701.025 to 701.059;

(4) Authorize the trial or experimental use of innovative systems for on-site sewage disposal, after consultation with the staff of the Missouri clean water commission, upon such conditions as the department may set**;**

(5) Provide technical assistance and guidance to any other administrative authority in the state on the regulation and enforcement of standards for individual on-site sewage disposal systems, at the request of such other administrative authority, or when the department determines that such assistance or guidance is necessary to prevent a violation of sections 701.025 to 701.059.

2. No rule or portion of a rule promulgated under the authority of sections 701.025 to 701.059 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

701.058. STAKEHOLDER MEETINGS, PERMITS AND INSPECTIONS OF SYSTEMS — REPORT. — The department of natural resources and the department of health and senior services shall jointly hold stakeholder meetings for the purpose of gathering data and information regarding permits and inspections for on-site sewage disposal systems. The departments shall evaluate the data and information obtained and present their findings and recommendations in a report to be submitted to the general assembly by December 31, 2011.

SECTION 1. NONSEVERABILITY OF ACT. — Notwithstanding the provisions of section 1.140, RSMo, to the contrary, the provisions of sections 37.970, 67.4500, 67.4505, 67.4510, 67.4515, 67.4520, 192.1250, 247.060, 253.090, 442.014, 444.771, 444.773, 621.250, 640.018, 640.128, 640.850, 643.020, 643.040, 643.050, 643.060, 643.079, 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 644.036, 644.051, 644.054, 644.071, 644.145, 701.033, 701.058, and 1 of this act shall be nonseverable, and if any provision is for any reason held to be invalid, such decision shall invalidate all of the remaining provisions of sections 37.970, 67.4500, 67.4505, 67.4510, 67.4515, 67.4520, 192.1250, 247.060, 253.090, 442.014, 444.771, 444.773, 621.250, 640.018, 640.128, 640.850, 643.020, 643.040, 643.050, 643.060, 643.079, 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 644.036, 644.051, 644.054, 644.071, 644.145, 701.033, 701.058, and 1 of this act.

[386.850. TASK FORCE, REQUIRED MEETINGS. — The Missouri energy task force created by executive order 05-46 shall reconvene at least one time per year for the purpose of reviewing progress made toward meeting the recommendations set forth in the task force's final report as issued under the executive order. The task force shall issue its findings in a status report to the governor and general assembly no later than December thirty-first of each year.**]**

[643.253. DEFINITIONS. — As used in sections 643.253 and 643.255, the following terms mean:

(1) "Asbestos", the asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite and actinolite;

(2) "Asbestos abatement projects", an activity undertaken to encapsulate, enclose or remove ten square feet or sixteen linear feet or more of friable asbestos-containing materials from buildings and other air contaminant sources, or to demolish buildings and other air contaminant sources containing ten square feet or sixteen linear feet or more;

(3) "Friable asbestos-containing material", any material that contains more than one percent asbestos, by weight, which is applied to ceilings, walls, structural members, piping, ductwork or any other part of a building or other air contaminant sources and which, when dry, may be crumbled, pulverized or reduced to powder by hand pressure.**]**

[643.260. DEFINITIONS. — As used in sections 643.260 to 643.265, the following terms mean:

(1) "Asbestos", the asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite and actinolite;

(2) "Asbestos-containing material", any material which contains more than one percent of asbestos by weight;

(3) "Friable asbestos-containing material", any material that contains more than one percent asbestos, by weight, which is applied to ceilings, walls, structural members, piping, ductwork or any other part of a building or other air contaminant sources and which, when dry, may be crumbled, pulverized or reduced to powder by hand pressure;

(4) "Person", any individual, partnership, copartnership, firm, company, or public or private corporation, association, joint stock company, trust, the state, political subdivision, or any agency, board, department or bureau of the state or federal government, or any other legal entity whatever which is recognized by law as the subject of rights and duties;

(5) "School district", seven-director districts, urban school districts and metropolitan school districts, as defined in section 160.011.**]**

[701.332. PROJECT NOT TO INCLUDE SINGLE-FAMILY DWELLING — OTHER EXCLUDED STRUCTURES, CONDITIONS. — For purposes of sections 643.225 to 643.250, the term "project" shall exclude any single-family owner-occupied dwellings and vacant public or privately owned residential structures of four dwelling units or less being demolished for the sole purpose of public health, safety or welfare. All vacant structures of four dwelling units or less located in any city not within a county shall be exempt from all geographical and time restrictions for the purpose of demolition pursuant to the National Emissions Standards for Asbestos. Excluded structures that are not located within a city not within a county shall be geographically dispersed. All excluded structures shall be demolished pursuant to a public safety determination by a local or state governmental agency and pose a threat to public safety.**]**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to maintain regulatory oversight by the state of Missouri, the repeal of sections 386.850, 643.253, 643.260, and 701.332, the repeal and reenactment of sections 253.090, 444.773, 643.130, 644.036, 644.051, 644.054, 644.071, and 701.033, and the enactment of sections 37.970, 67.4500, 67.4505, 67.4510, 67.4515, 67.4520, 192.1250, 444.771, 620.2300, 640.018, 640.128, 640.850, 644.145, 701.058, and 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 the repeal of sections 386.850, 643.253, 643.260, and 701.332, the repeal and reenactment of sections 253.090, 444.773, 643.130, 644.036, 644.051, 644.054, 644.071, and 701.033, and the enactment of sections 37.970, 67.4500, 67.4505, 67.4510, 67.4515, 67.4520, 192.1250, 444.771, 620.2300, 640.018, 640.128, 640.850, 644.145, 701.058, and 1 of this act shall be in full force and effect upon its passage and approval.

Approved July 11, 2011

HB 101 [CCS SCS HB 101]

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 liquor control

AN ACT to repeal sections 311.297, 311.482, 311.485, and 311.486, RSMo, and to enact in lieu thereof six new sections relating to liquor control.

SECTION

A. Enacting clause.
311.087. Wine shops, sale of intoxicating liquor by the drink license--wine shop defined--fee.
311.088. Special permit for sale of intoxicating liquor by the drink from 6 a.m. to 3 a.m. the following day — limit on number of permits per year — fee (Kansas City).
311.297. Alcohol samples for tasting on and off licensed retail premises, when.
311.482. Temporary permit for sale by drink may be issued to certain organizations, when, duration — collection of sales taxes, notice to director of revenue.
311.485. Temporary location for liquor by the drink, caterers — permit and fee required — other laws applicable.
311.486. Special license, drink at retail for consumption on the premises, when — duration of license — fees.

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

SECTION A. ENACTING CLAUSE. — Sections 311.297, 311.482, 311.485, and 311.486, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 311.087, 311.088, 311.297, 311.482, 311.485, and 311.486, to read as follows:

311.087. WINE SHOPS, SALE OF INTOXICATING LIQUOR BY THE DRINK LICENSE--WINE SHOP DEFINED--FEE. — Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter, and who meets the requirements of and complies with the provisions of this chapter may apply for, and the supervisor of alcohol and tobacco control may issue, a license to sell intoxicating liquor by the drink at retail for consumption on the premises of any wine shop, as defined in this section, between the hours of 10:00 a.m. on Sunday and 10:00 p.m. on Sunday. As used in this section, the term "wine shop" means any establishment that uses automated wine dispensing equipment to dispense wine tastings by the glass at retail for consumption on the premises where sold, so long as at least fifty percent of the total sales of the wine shop are from package sales. In addition to all other fees required by law, an applicant granted a special license under this section shall pay an additional fee of two hundred dollars a year payable at the time and in the same manner as its other license fees.

311.088. SPECIAL PERMIT FOR SALE OF INTOXICATING LIQUOR BY THE DRINK FROM 6 A.M. TO 3 A.M. THE FOLLOWING DAY — LIMIT ON NUMBER OF PERMITS PER YEAR — FEE (KANSAS CITY). — Any person possessing the qualifications and meeting the requirements

of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a home rule city with more than four hundred thousand inhabitants and located in more than one county may be issued a special permit by the state and such city. Notwithstanding the provisions of section 311.089 to the contrary, the special permit issued under this section shall allow the licensed premises to sell intoxicating liquor from 6:00 a.m. until 3:00 a.m. on the morning of the following day within one twenty-four hour period. Any person granted a special permit under this section shall only be authorized to receive up to six such special permits from the city in a calendar year. For every special permit issued under the provisions of this section, the permittee shall pay to the director of the department of revenue the sum of fifty dollars.

311.297. ALCOHOL SAMPLES FOR TASTING ON AND OFF LICENSED RETAIL PREMISES, WHEN. — 1. Any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide and pour distilled spirits, wine, or malt beverage samples off a licensed retail premises for tasting purposes provided no sales transactions take place. For purposes of this section, a "sales transaction" shall mean an actual and immediate exchange of monetary consideration for the immediate delivery of goods at the tasting site.

2. Notwithstanding any other provisions of this chapter to the contrary, any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide, furnish, or pour distilled spirits, wine, or malt beverage samples for customer tasting purposes on any temporary licensed retail premises as described in section 311.218, 311.482, 311.485, 311.486, or 311.487, or on any tax exempt organization's licensed premises as described in section 311.090.

3. (1) Notwithstanding any other provisions of this chapter to the contrary, any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide or furnish distilled spirits, wine, or malt beverage samples on a licensed retail premises for customer tasting purposes so long as the winery, distiller, manufacturer, wholesaler, or brewer or designated employee has permission from the person holding the retail license. The retail licensed premises where such product tasting is provided shall maintain a special permit in accordance with section 311.294 or hold a by-the-drink-for-consumption-on-the-premises-where-sold retail license. No money or anything of value shall be given to the retailers for the privilege or opportunity of conducting the on-the-premises product tasting.

(2) Distilled spirits, wine, or malt beverage samples may be dispensed by an employee of the retailer, winery, distiller, manufacturer, or brewer or by a sampling service retained by the retailer, winery, distiller, manufacturer, or brewer. All sampling service employees that provide and pour intoxicating liquor samples on a licensed retail premises shall be required to complete a server training program approved by the division of alcohol and tobacco control.

(3) Any distilled spirits, wine, or malt beverage sample provided by the retailer, winery, distiller, manufacturer, wholesaler, or brewer remaining after the tasting shall be returned to the retailer, winery, distiller, manufacturer, wholesaler, or brewer.

311.482. TEMPORARY PERMIT FOR SALE BY DRINK MAY BE ISSUED TO CERTAIN ORGANIZATIONS, WHEN, DURATION — COLLECTION OF SALES TAXES, NOTICE TO DIRECTOR OF REVENUE. — 1. Notwithstanding any other provision of this chapter, a permit for the sale of **all kinds of** intoxicating liquor **[**as defined in section 311.020**]**, **including intoxicating liquor in the original package, at retail by the drink** for consumption on **the** premises **[**where sold**] of the licensee** may be issued to any church, school, civic, service, fraternal, veteran, political**,** or charitable club or organization for the sale of such intoxicating liquor at a picnic, bazaar, fair, or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven days by any such club or organization.

2. To secure the permit, the applicant shall complete a form provided by the supervisor, but no applicant shall be required to furnish a personal photograph as part of the application. The applicant shall pay a fee of twenty-five dollars for such permit.

3. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor on that day beginning at 11:00 a.m.

4. At the same time that an applicant applies for a permit under the provisions of this section, the applicant shall notify the director of revenue of the holding of the event and by such notification, by certified mail, shall accept responsibility for the collection and payment of any applicable sales tax. Any sales tax due shall be paid to the director of revenue within fifteen days after the close of the event, and failure to do so shall result in a liability of triple the amount of the tax due plus payment of the tax, and denial of any other permit for a period of three years. Under no circumstances shall a bond be required from the applicant.

5. No provision of law or rule or regulation of the supervisor shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or similar gathering.

311.485. TEMPORARY LOCATION FOR LIQUOR BY THE DRINK, CATERERS — PERMIT AND FEE REQUIRED — OTHER LAWS APPLICABLE. — 1. The supervisor of liquor control may issue a temporary permit to caterers and other persons holding licenses to sell intoxicating liquor**, including intoxicating liquor in the original package,** by the drink at retail for consumption on the premises pursuant to the provisions of this chapter who furnish provisions and service for use at a particular function, occasion or event at a particular location other than the licensed premises, but not including a festival as defined in chapter 316. The temporary permit shall be effective for a period not to exceed one hundred sixty-eight consecutive hours, and shall authorize the service of alcoholic beverages at such function, occasion or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every permit issued pursuant to the provisions of this section, the permittee shall pay to the director of revenue the sum of ten dollars for each calendar day, or fraction thereof, for which the permit is issued.

2. Except as provided in subsection 3 of this section, all provisions of the liquor control law and the ordinances, rules and regulations of the incorporated city, or the unincorporated area of any county, in which is located the premises in which such function, occasion or event is held shall extend to such premises and shall be in force and enforceable during all the time that the permittee, its agents, servants, employees, or stock are in such premises. **[**Except for Missouri-produced wines in the original package, the provisions of this section shall not include the sale of packaged goods covered by this temporary permit.**]**

3. Notwithstanding any other law to the contrary, any caterer who possesses a valid state and valid local liquor license may deliver alcoholic beverages in the course of his or her catering business. A caterer who possesses a valid state and valid local liquor license need not obtain a separate license for each city the caterer delivers in, so long as such city permits any caterer to deliver alcoholic beverages within the city.

4. To assure and control product quality, wholesalers may, but shall not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight delivered and invoiced under the catering permit number, but not used, if the wholesaler removes the product within seventy-two hours of the expiration of the catering permit issued pursuant to this section.

311.486. SPECIAL LICENSE, DRINK AT RETAIL FOR CONSUMPTION ON THE PREMISES, WHEN — DURATION OF LICENSE — FEES. — 1. The supervisor of alcohol and tobacco control may issue a special license to caterers and other persons holding licenses to sell intoxicating liquor**, including intoxicating liquor in the original package,** by the drink at retail for consumption on the premises pursuant to the provisions of this chapter who furnish provisions

and service for use at a particular function, occasion, or event at a particular location other than the licensed premises, but not including a festival as defined in chapter 316. The special license shall be effective for a maximum of fifty days during any year, and shall authorize the service of alcoholic beverages at such function, occasion, or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every special license issued pursuant to the provisions of this subsection, the licensee shall pay to the director of revenue the sum of five hundred dollars a year payable at the same time and in the same manner as its other license fees.

2. The supervisor of alcohol and tobacco control may issue a special license to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this chapter who furnish provisions and service for use at a particular function, occasion, or event at a particular location other than the licensed premises, but not including a festival as defined in chapter 316. The special license shall be effective for an unlimited number of functions during the year, and shall authorize the service of alcoholic beverages at such function, occasion, or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every special license issued pursuant to the provisions of this subsection, the licensee shall pay to the director of revenue the sum of one thousand dollars a year payable at the same time and in the same manner as its other license fees.

3. Caterers issued a special license pursuant to subsections 1 and 2 of this section shall report to the supervisor of alcohol and tobacco control the location of each function three business days in advance. The report of each function shall include permission from the property owner and city, description of the premises, and the date or dates the function will be held.

4. Except as provided in subsection 5 of this section, all provisions of the liquor control law and the ordinances, rules and regulations of the incorporated city, or the unincorporated area of any county, in which is located the premises in which such function, occasion, or event is held shall extend to such premises and shall be in force and enforceable during all the time that the licensee, its agents, servants, employees, or stock are in such premises. **[**Except for wines in the original package, the provisions of this section shall not include the sale of packaged goods covered by this special license.**]**

5. Notwithstanding any other law to the contrary, any caterer who possesses a valid state and valid local liquor license may deliver alcoholic beverages, in the course of his or her catering business. A caterer who possesses a valid state and valid local liquor license need not obtain a separate license for each city the caterer delivers in, so long as such city permits any caterer to deliver alcoholic beverages within the city.

6. To assure and control product quality, wholesalers may, but shall not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight delivered and invoiced under the catering license number, but not used, if the wholesaler removes the product within seventy-two hours of the expiration of the catering function.

Approved July 8, 2011

HB 109 [HB 109]

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.

Repeals the provisions allowing the State Treasurer to invest in any linked deposit for specified purposes only for certain time periods

AN ACT to repeal sections 30.260, 30.750, 30.758, 30.767, 30.810, and 30.860, RSMo, and to enact in lieu thereof five new sections relating to linked deposits.

SECTION

A. Enacting clause.
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30.750. Definitions.
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Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 30.260, 30.750, 30.758, 30.767, 30.810, and 30.860, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 30.260, 30.750, 30.758, 30.810, and 30.860, to read as follows:

30.260. INVESTMENT POLICY REQUIRED — TIME AND DEMAND DEPOSITS — INVESTMENTS — INTEREST RATES. — 1. The state treasurer shall prepare, maintain and adhere to a written investment policy which shall include an asset allocation plan which limits the total amount of state moneys which may be invested in any particular investment authorized by section 15, article IV of the Missouri Constitution. Such asset allocation plan shall also set diversification limits, as applicable, which shall include a restriction limiting the total amount of time deposits of state moneys, not including linked deposits, placed with any one single banking institution to be no greater than ten percent of all time deposits of state moneys. The state treasurer shall present a copy of such policy to the governor, commissioner of administration, state auditor and general assembly at the commencement of each regular session of the general assembly or at any time the written investment policy is amended.

2. The state treasurer shall determine by the exercise of the treasurer's best judgment the amount of state moneys that are not needed for current operating expenses of the state government and shall keep on demand deposit in banking institutions in this state selected by the treasurer and approved by the governor and state auditor the amount of state moneys which the treasurer has so determined are needed for current operating expenses of the state government and disburse the same as authorized by law.

3. Within the parameters of the state treasurer's written investment policy, the state treasurer shall place the state moneys which the treasurer has determined are not needed for current operations of the state government on time deposit drawing interest in banking institutions in this state selected by the treasurer and approved by the governor and the state auditor, or place them outright or, if applicable, by repurchase agreement in obligations described in section 15, article IV, Constitution of Missouri, as the treasurer in the exercise of the treasurer's best judgment determines to be in the best overall interest of the people of the state of Missouri, giving due consideration to:

(1) The preservation of such state moneys;

(2) The benefits to the economy and welfare of the people of Missouri when such state money is invested in banking institutions in this state that, in turn, provide additional loans and investments in the Missouri economy and generate state taxes from such initial investments and the loans and investments created by the banking institutions, compared to the removal or withholding from banking institutions in the state of all or some such state moneys and investing same in obligations authorized in section 15, article IV of the Missouri Constitution;

(3) The liquidity needs of the state;

(4) The aggregate return in earnings and taxes on the deposits and the investment to be derived therefrom; and

(5) All other factors which to the treasurer as a prudent state treasurer seem to be relevant to the general public welfare in the light of the circumstances at the time prevailing. The state treasurer may also place state moneys which are determined not needed for current operations of the state government in linked deposits as provided in sections 30.750 to **[**30.767**] 30.765**.

4. Except for state moneys deposited in linked deposits as provided in sections 30.750 to 30.860, the rate of interest payable by all banking institutions on time deposits of state moneys shall be set under subdivisions (1) to (5) of this subsection and subsections 6 and 7 of this section. The rate shall never exceed the maximum rate of interest which by federal law or regulation a bank which is a member of the Federal Reserve System may from time to time pay on a time deposit of the same size and maturity. The rate of interest payable by all banking institutions on time deposits of state moneys is as follows:

(1) Beginning January 1, 2010, the rate of interest payable by a banking institution on up to seven million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than seven million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of seven million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(2) Beginning January 1, 2011, the rate of interest payable by a banking institution on up to five million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than five million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of five million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(3) Beginning January 1, 2012, the rate of interest payable by a banking institution on up to three million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than three million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of three million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(4) Beginning January 1, 2013, the rate of interest payable by a banking institution on up to one million dollars of time deposits of state moneys shall be the same as the average rate paid during the week next preceding the week in which the deposit was made for United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent. In the case of a banking institution that holds more than one million dollars of time deposits of state moneys, the rate of interest payable on deposits in excess of one million dollars of time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section;

(5) Beginning January 1, 2014, the rate of interest payable by a banking institution on all time deposits of state moneys shall be set at the market rate as determined in subsection 6 of this section.

5. Notwithstanding subdivisions (1) to (5) of subsection 4 of this section, for any new time deposits of state moneys placed after January 1, 2010, with a term longer than eighteen months, the rate of interest payable by a banking institution shall be set at the market rate as determined in subsection 6 of this section.

6. Market rate shall be determined no less frequently than once a month by the director of investments in the office of state treasurer. The process for determining a market rate shall include due consideration of prevailing rates offered for certificates of deposit by well-capitalized Missouri financial institutions, the advance rate established by the Federal Home Loan Bank of Des Moines for member institutions and the costs of collateralization, as well as an evaluation of the credit risk associated with other authorized securities under section 15, article IV, of the Missouri Constitution. Banking institutions may also offer a higher rate than the market rate for any time deposit placed with the state treasurer in excess of the total amount of state moneys set at the United States of America treasury securities maturing and becoming payable closest to the time of termination of the deposit indicated in subdivisions (1) to (5) of subsection 4 of this section.

7. Within the parameters of the state treasurer's written investment policy, the state treasurer may subscribe for or purchase outright or by repurchase agreement investments of the character described in subsection 3 of this section which the treasurer, in the exercise of the treasurer's best judgment, believes to be the best for investment of state moneys at the time and in payment therefor may withdraw moneys from any bank account, demand or time, maintained by the treasurer without having any supporting warrant of the commissioner of administration. The state treasurer may bid on subscriptions for such obligations in accordance with the treasurer's best judgment. The state treasurer shall provide for the safekeeping of all such obligations so acquired in the same manner that securities pledged to secure the repayment of state moneys deposited in banking institutions are kept by the treasurer pursuant to law. The state treasurer may hold any such obligation so acquired by the treasurer until its maturity or prior thereto may sell the same outright or by reverse repurchase agreement provided the state's security interest in the underlying security is perfected or temporarily exchange such obligation for cash or other authorized securities of at least equal market value with no maturity more than one year beyond the maturity of any of the traded obligations, for a negotiated fee as the treasurer, in the exercise of the treasurer's best judgment, deems necessary or advisable for the best interest of the people of the state of Missouri in the light of the circumstances at the time prevailing. The state treasurer may pay all costs and expenses reasonably incurred by the treasurer in connection with the subscription, purchase, sale, collection, safekeeping or delivery of all such obligations at any time acquired by the treasurer.

8. As used in this chapter, except as more particularly specified in section 30.270, obligations of the United States shall include securities of the United States Treasury, and United States agencies or instrumentalities as described in section 15, article IV, Constitution of Missouri. The word "temporarily" as used in this section shall mean no more than six months.

30.750. DEFINITIONS. — As used in sections 30.750 to **[**30.767**] 30.765**, 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 alternative energy consumer", an individual who wishes to borrow moneys for the purchase, installation, or construction of facilities or equipment related to the production of fuel or power primarily for **[**their**] the individual's** own use from energy sources other than fossil fuels, including but not limited to solar, hydroelectric, wind, and qualified biomass;

(3) "Eligible alternative energy operation", a business enterprise engaged in the production of fuel or power from energy sources other than fossil fuels, including but not limited to solar, hydroelectric, wind, and qualified biomass. Such business enterprise shall conform to the characteristics of paragraphs (a), (b), and (d) of subdivision (6) of this section;

(4) "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;

(5) "Eligible facility borrower", a borrower qualified under section 30.860 to apply for a reduced-rate loan under sections 30.750 to **[**30.767**] 30.765**;

(6) "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 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;

(7) "Eligible governmental entity", any political subdivision of the state seeking to finance capital improvements, capital outlay, or other significant programs through an eligible lending institution;

(8) "Eligible higher education institution", any approved public or private institution as defined in section 173.205;

(9) "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 except when the applicant can demonstrate significant costs for equipment, capital outlay, or capital improvements associated with the physical expansion, renovation, or modernization of a facility or equipment. In such cases, the maximum amount of the linked deposit shall not exceed fifty thousand dollars per job created or retained plus the initial cost of the physical expansion, renovation or capital outlay;

(10) "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;

(11) "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;

(12) "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;

(13) "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**] 30.765**. Such business enterprise shall conform to the characteristics of paragraphs (a), (b) and (d) of subdivision (6) of this section and also employ less than twenty-five employees;

(14) "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**] 30.765**;

(15) "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;

(16) "Eligible residential property owner", a person, firm or corporation who purchases, develops or rehabilitates a multifamily residential structure;

(17) "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 (6) of this section, and also employs less than one hundred employees;

(18) "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);

(19) "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; 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;

(20) "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;

(21) "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**] 30.765**, to eligible multitenant development enterprises, eligible small businesses, eligible alternative energy operations, eligible alternative energy consumers, eligible locally owned businesses, farming operations, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible governmental entities, 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 multitenant development enterprise, small business, alternative energy operation, alternative energy consumer, farming operation, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible governmental entity, 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;

(22) "Market rate", the interest rate more specifically described in subsection 6 of section 30.260;

(23) "Professional forester", any individual who holds a bachelor of science degree in forestry from a regionally accredited college or university with a minimum of two years of professional forest management experience;

(24) "Qualified biomass", any agriculture-derived organic material or any wood-derived organic material harvested in accordance with a site-specific forest management plan focused on long-term forest sustainability developed by a professional forester and qualified, in consultation with the conservation commission, by the agriculture and small business development authority;

(25) "Water corporation", as such term is defined in section 386.020;

(26) "Water system", as such term is defined in section 386.020.

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 alternative energy operations, eligible alternative energy consumers, eligible locally owned businesses, eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible governmental entities, 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. 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**] 30.765**. 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 alternative energy operation, eligible alternative energy consumer, eligible locally owned business, eligible small business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible governmental entity, 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 alternative energy operation, eligible alternative energy consumer, eligible locally owned business, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible governmental entity, 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.

30.810. APPLICATION OF LINKED DEPOSITS LAW. — Except for specific provisions to the contrary in sections 30.800 to 30.850, all definitions, requirements, responsibilities, rights, remedies and other matters set forth in sections 30.750 to **[**30.767**] 30.765** shall apply to linked deposits and linked deposit loans to eligible guaranteed agribusinesses, eligible guaranteed livestock operations, and eligible guaranteed vermiculture operations.

30.860. DEVELOPMENT FACILITIES AND RENEWABLE FUEL PRODUCTION FACILITIES, CERTIFICATES OF QUALIFICATIONS ISSUED, WHEN — FACTORS CONSIDERED — RULEMAKING AUTHORITY. — 1. As used in this section, the following terms mean:

(1) "Agricultural commodity", any agricultural product that has been produced for purpose of sale or exchange, except for animals whose principal use may be construed as recreational or as a pet;

(2) "Authority", the Missouri agricultural and small business development authority organized under sections 348.005 to 348.180;

(3) "Borrower", any partnership, corporation, cooperative, or limited liability company organized or incorporated under the laws of this state consisting of not less than twelve members for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

(4) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(5) "Eligible facility borrower", a development facility or renewal fuel production facility borrower qualified by the authority under this section to apply for a reduced-rate loan under sections 30.750 to **[**30.767**] 30.765**;

(6) "Renewable fuel production facility", a facility producing an energy source that is derived from a renewable, domestically grown organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source.

2. The authority shall accept applications and issue certificates of qualification as an eligible facility borrower to development facilities and renewable fuel production facilities for purposes of applying for reduced-rate loans under sections 30.750 to **[**30.767**] 30.765** to finance new costs or refinance existing debt associated with such facilities. The authority may charge for each certificate of qualification a one-time fee in an amount not to exceed the actual cost of issuance of the certificate.

3. In determining whether a facility will qualify as an eligible facility borrower, the authority shall consider the following factors:

(1) The borrower's ability to repay the loan;

(2) The general economic conditions of the area in which the agricultural property will be or is located;

(3) The prospect of success of the particular project for which the loan is sought; and

(4) Such other factors as the authority may establish by rule.

4. No reduced rate loan made to an eligible facility borrower under sections 30.750 to **[**30.767**] 30.765** shall:

(1) Exceed seventy million dollars for any single eligible facility borrower;

(2) Exceed seventy percent of the total anticipated cost of the development facility or renewable fuel production facility or, in the case of refinancing existing debt, ninety percent of the fair market value of the development facility or renewable fuel production facility;

(3) Exceed a loan term of five years, except that such loan may be extended up to two additional loan periods of five years each for a maximum total loan term of fifteen years; and

(4) When a banking institution or an eligible lending institution extends credit under the provisions of this section and provides the lead in underwriting the credit, it may enter into a participation agreement, sell part of the loan to third parties, syndicate the loan, or make other written arrangement with financial intermediaries, provided that at all times any financial intermediary, participant, purchaser, or other party obtaining a legal or equitable interest in the loan otherwise qualifies for linked deposit loans and fully collateralizes those loans as required by this chapter.

5. The state treasurer may contract with other parties as permitted in section 30.286 and consult with the authority to implement this section. However, the state treasurer shall make the final determination on the placement of linked deposits of state funds in banking institutions or eligible lending institutions as permitted by the constitution.

6. The state treasurer 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, 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

7. The provisions of sections 23.250 to 23.298 shall not apply to the provisions of this section.

[30.767. EXPIRATION OF STATE TREASURER'S POWER TO INVEST IN LINKED DEPOSIT — EXCEPTIONS. — The state treasurer shall not, after December 31, 2015, invest in any linked deposit the value of which is to be lent to a recipient other than an eligible water supply system or an eligible student borrower. The state treasurer shall not, after January 1, 2020, invest in any linked deposit, the value of which is to be lent to any new eligible facility borrower. However, such restriction shall not apply to any extensions of existing loans as provided for in section 30.860.**]**

Approved June 22, 2011

HB 111 [SS#2 SCS HCS HB 111]

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 judicial procedures

AN ACT to repeal sections 144.032, 302.020, 302.321, 303.025, 311.325, 351.340, 452.340, 475.060, 475.061, 475.115, 477.650, 484.350, 523.040, 544.455, 544.470, 557.011, 566.086, 566.147, 568.040, 570.080, 578.150, and 589.040, RSMo, and to enact in lieu thereof fifty-three new sections relating to the judiciary, with penalty provisions, and an emergency clause for certain sections.

SECTION

A. Enacting clause.
34.376. Citation of act — definitions.
34.378. Contingent fee contracts, limitations — written proposals, when — standard addendum — posting of contracts on website — record-keeping requirements — report, contents.
34.380. Contractual authority not expanded.
144.032. Cities or counties may impose sales tax on utilities — determination of domestic use.
205.205. Hospital district sales tax authorized (Iron and Madison counties) — approval by voters — fund created, use of moneys — repeal of tax, procedure.
221.025. Electronic monitoring permitted, when — credit of time against period of confinement.
302.020. Operation of motor vehicle without proper license prohibited, penalty — motorcycles — special license — protective headgear, failure to wear, fine, amount — no points to be assessed.
302.321. Driving while license or driving privilege is canceled, suspended or revoked, penalty — enhanced penalty for repeat offenders — imprisonment, mandatory, exception.
303.025. Duty to maintain financial responsibility, residents and nonresidents, misdemeanor penalty for failure to maintain — exception, methods — court to notify department of revenue, additional punishment, right of appeal.
311.325. Purchase or possession by minor, a misdemeanor — container need not be opened and contents verified, when — consent to chemical testing deemed given, when — burden of proof on violator to prove not intoxicating liquor — section not applicable to certain students, requirements.
351.340. Board meetings, where and how held.
452.340. Child support, how allocated — factors to be considered — abatement or termination of support, when — support after age eighteen, when — public policy of state — payments may be made directly to child, when — child support guidelines, rebuttable presumption, use of guidelines, when — retroactivity — obligation terminated, how.
455.007. Mootness doctrine, public interest exception to apply, when.
475.060. Application for guardianship — petition for guardianship requirements — incapacitated persons, petition requirements.
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475.541. Registration of guardianship orders.
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475.543. Effect of registration.
475.544. State law applicability.
475.551. Uniformity of application and construction.
475.552. Relation to Electronic Signatures in Global and National Commerce Act.
475.555. Effective date.
477.650. Basic civil legal services fund created, moneys to be used to increase funding for legal services to eligible low-income persons — allocation of moneys — record-keeping requirements — report to general assembly — expiration date.
484.350. Standards for representation to be updated and adopted statewide, when.
523.040. Appointment of commissioners — duties — notice of property viewing.
544.455. Release of person charged, when — conditions which may be imposed.
544.470. Commitment of individual, when — presumption for aliens unlawfully present.
557.011. Authorized dispositions.
566.086. Sexual contact with a student.
566.147. Certain offenders not to reside within one thousand feet of a school or child-care facility.
568.040. Criminal nonsupport, penalty — payment of support as a condition of parole — prosecuting attorneys to report cases to family support division.
570.080. Receiving stolen property.
578.150. Failure to return rented personal property — evidence of intent to violate, when — law enforcement procedure — penalty — venue — exception.
589.040. Duties of department of corrections — certain inmates to participate in programs.
632.312. Transportation costs, sheriff may be reimbursed.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 144.032, 302.020, 302.321, 303.025, 311.325, 351.340, 452.340, 475.060, 475.061, 475.115, 477.650, 484.350, 523.040, 544.455, 544.470, 557.011, 566.086, 566.147, 568.040, 570.080, 578.150, and 589.040, RSMo, are repealed and fifty-three new sections enacted in lieu thereof, to be known as sections 34.376, 34.378, 34.380, 144.032, 205.205, 221.025, 302.020, 302.321, 303.025, 311.325, 351.340, 452.340, 455.007, 475.060, 475.061, 475.115, 475.501, 475.502, 475.503, 475.504, 475.505, 475.506, 475.521, 475.522, 475.523, 475.524, 475.525, 475.526, 475.527, 475.528, 475.529, 475.531, 475.532, 475.541, 475.542, 475.543, 475.544, 475.551, 475.552, 475.555, 477.650, 484.350, 523.040, 544.455, 544.470, 557.011, 566.086, 566.147, 568.040, 570.080, 578.150, 589.040, and 632.312, to read as follows:

34.376. CITATION OF ACT — DEFINITIONS. — 1. Sections 34.376 to 34.380 may be known as the "Transparency in Private Attorney Contracts Act".

2. As used in sections 34.376 to 34.380, the following terms shall mean:

(1) "Government attorney", an attorney employed by the state as an assistant attorney general;

(2) "Private attorney", any private attorney or law firm;

(3) "State", the state of Missouri, in any action instituted by the attorney general pursuant to section 27.060.

34.378. CONTINGENT FEE CONTRACTS, LIMITATIONS — WRITTEN PROPOSALS, WHEN — STANDARD ADDENDUM — POSTING OF CONTRACTS ON WEBSITE — RECORD-KEEPING REQUIREMENTS — REPORT, CONTENTS. — 1. The state shall not enter into a contingency fee contract with a private attorney unless the attorney general makes a written determination prior to entering into such a contract that contingency fee representation is both cost-effective and in the public interest. Any written determination shall include specific findings for each of the following factors:

(1) Whether there exists sufficient and appropriate legal and financial resources within the attorney general's office to handle the matter;

(2) The time and labor required; the novelty, complexity, and difficulty of the questions involved; and the skill requisite to perform the attorney services properly;

(3) The geographic area where the attorney services are to be provided; and

(4) The amount of experience desired for the particular kind of attorney services to be provided and the nature of the private attorney's experience with similar issues or cases.

2. If the attorney general makes the determination described in subsection 1 of this section, the attorney general shall request written proposals from private attorneys to represent the state, unless the attorney general determines that requesting proposals is not feasible under the circumstances and sets forth the basis for this determination in writing. If a request for proposals is issued, the attorney general shall choose the lowest and best bid or request the office of administration establish an independent panel to evaluate the proposals and choose the lowest and best bid.

3. The state shall not enter into a contract for contingency fee attorney services unless the following requirements are met throughout the contract period and any extensions to the contract:

(1) The government attorneys shall retain complete control over the course and conduct of the case;

(2) A government attorney with supervisory authority shall oversee the litigation;

(3) The government attorneys shall retain veto power over any decisions made by outside counsel;

(4) A government attorney with supervisory authority for the case shall attend all settlement conferences; and

(5) Decisions regarding settlement of the case shall be reserved exclusively to the discretion of the attorney general.

4. The attorney general shall develop a standard addendum to every contract for contingent fee attorney services that shall be used in all cases, describing in detail what is expected of both the contracted private attorney and the state, including, without limitation, the requirements listed in subsection 4 of this section.

5. Copies of any executed contingency fee contract and the attorney general's written determination to enter into a contingency fee contract with the private attorney shall be posted on the attorney general's website for public inspection within five business days after the date the contract is executed and shall remain posted on the website for the duration of the contingency fee contract, including any extensions or amendments to the contract. Any payment of contingency fees shall be posted on the attorney general's website within fifteen days after the payment of such contingency fees to the private attorney and shall remain posted on the website for at least three hundred sixty-five days.

6. Any private attorney under contract to provide services to the state on a contingency fee basis shall, from the inception of the contract until at least four years after the contract expires or is terminated, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of such attorney services. The private attorney shall maintain detailed contemporaneous time records for

the attorneys and paralegals working on the matter in increments of no greater than one tenth of an hour and shall promptly provide these records to the attorney general, upon request. Any request under chapter 610 for inspection and copying of such records shall be served upon and responded to by the attorney general's office.

7. By February first of each year, the attorney general shall submit a report to the president pro tem of the senate and the speaker of the house of representatives describing the use of contingency fee contracts with private attorneys in the preceding calendar year. At a minimum, the report shall:

(1) Identify all new contingency fee contracts entered into during the year and all previously executed contingency fee contracts that remain current during any part of the year, and for each contract describe:

(a) The name of the private attorney with whom the department has contracted, including the name of the attorney's law firm;

(b) The nature and status of the legal matter;

(c) The name of the parties to the legal matter;

(d) The amount of any recovery; and

(e) The amount of any contingency fee paid.

(2) Include copies of any written determinations made under subsections 1 and 2 of this section.

34.380. CONTRACTUAL AUTHORITY NOT EXPANDED. — Nothing in sections 34.376 to 34.380 shall be construed to expand the authority of any state agency or state agent to enter into contracts where no such authority previously existed.

144.032. CITIES OR COUNTIES MAY IMPOSE SALES TAX ON UTILITIES — DETERMINATION OF DOMESTIC USE. — The provisions of section 144.030 to the contrary notwithstanding, any city imposing a sales tax under the provisions of sections 94.500 to 94.570, or any county imposing a sales tax under the provisions of sections 66.600 to 66.635, or any county imposing a sales tax under the provisions of sections 67.500 to 67.729**, or any hospital district imposing a sales tax under the provisions of section 205.205,** may by ordinance impose a sales tax upon all sales of metered water services, electricity, electrical current and natural, artificial or propane gas, wood, coal, or home heating oil for domestic use only. Such tax shall be administered by the department of revenue and assessed by the retailer in the same manner as any other city **[**or**] ,** county**, or hospital district** sales tax. Domestic use shall be determined in the same manner as the determination of domestic use for exemption of such sales from the state sales tax under the provisions of section 144.030.

205.205. HOSPITAL DISTRICT SALES TAX AUTHORIZED (IRON AND MADISON COUNTIES) — APPROVAL BY VOTERS — FUND CREATED, USE OF MONEYS — REPEAL OF TAX, PROCEDURE. — 1. The governing body of any hospital district established under sections 205.160 to 205.379 in any county of the third classification without a township form of government and with more than ten thousand six hundred but fewer than ten thousand seven hundred inhabitants may, by resolution, abolish the property tax authorized in such district under this chapter and impose a sales tax on all retail sales made within the district which are subject to sales tax under chapter 144 and all sales of metered water services, electricity, electrical current and natural, artificial or propane gas, wood, coal, or home heating oil for domestic use only as provided under section 144.032. The tax authorized in this section shall be not more than one percent, and shall be imposed solely for the purpose of funding the hospital district. 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. No such resolution adopted under this section shall become effective unless the governing body of the hospital district submits to the voters residing within the district at a state general, primary, or special election a proposal to authorize the governing body of the district to impose a tax under this section. 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 after the director of revenue receives notification of adoption of the local sales tax. 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. All revenue collected under this section by the director of the department of revenue on behalf of the hospital district, 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 "Hospital District Sales Tax 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 fund and credited to the district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such district. Any funds in the special 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. The governing body of any hospital district 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 district. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the 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.

5. Whenever the governing body of any hospital district that has adopted the sales tax authorized in this section receives a petition, signed by a number of registered voters of the district equal to at least ten percent of the number of registered voters of the district 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 district 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.

6. 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 hospital district shall notify the director of the department of revenue of the action at least ninety 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 district, the director shall

remit the balance in the account to the district and close the account of that district. The director shall notify each district of each instance of any amount refunded or any check redeemed from receipts due the district.

221.025. ELECTRONIC MONITORING PERMITTED, WHEN — CREDIT OF TIME AGAINST PERIOD OF CONFINEMENT. — 1. As an alternative to confinement, an individual may be placed on electronic monitoring pursuant to subsection 1 of section 544.455 or subsection 6 of section 557.011, with such terms and conditions as a court shall deem just and appropriate under the circumstances.

2. A judge may, in his or her discretion, credit any such period of electronic monitoring against any period of confinement or incarceration ordered, however, electronic monitoring shall not be considered to be in custody or incarceration for purposes of eligibility for the MO HealthNet program, nor shall it be considered confinement in a correctional center or private or county jail for purposes of determining responsibility for the individual's health care.

3. This section shall not authorize a court to place an individual on electronic monitoring in lieu of the required imprisonment, community service, or court ordered treatment program involving community service, if that individual is a prior, persistent, aggravated, or chronic offender sentenced pursuant to section 577.023.

302.020. OPERATION OF MOTOR VEHICLE WITHOUT PROPER LICENSE PROHIBITED, PENALTY — MOTORCYCLES — SPECIAL LICENSE — PROTECTIVE HEADGEAR, FAILURE TO WEAR, FINE, AMOUNT — NO POINTS TO BE ASSESSED. — 1. Unless otherwise provided for by law, it shall be unlawful for any person, except those expressly exempted by section 302.080, to:

(1) Operate any vehicle upon any highway in this state unless the person has a valid license;

(2) Operate a motorcycle or motortricycle upon any highway of this state unless such person has a valid license that shows the person has successfully passed an examination for the operation of a motorcycle or motortricycle as prescribed by the director. The director may indicate such upon a valid license issued to such person, or shall issue a license restricting the applicant to the operation of a motorcycle or motortricycle if the actual demonstration, required by section 302.173, is conducted on such vehicle;

(3) Authorize or knowingly permit a motorcycle or motortricycle owned by such person or under such person's control to be driven upon any highway by any person whose license does not indicate that the person has passed the examination for the operation of a motorcycle or motortricycle or has been issued an instruction permit therefor;

(4) Operate a motor vehicle with an instruction permit or license issued to another person.

2. Every person operating or riding as a passenger on any motorcycle or motortricycle, as defined in section 301.010, upon any highway of this state shall wear protective headgear at all times the vehicle is in motion. The protective headgear shall meet reasonable standards and specifications established by the director.

3. Notwithstanding the provisions of section 302.340 any person convicted of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a **[**class A**]** misdemeanor. **A first violation of subdivision (1) or (2) of subsection 1 of this section shall be punishable by a fine not to exceed three hundred dollars. A second violation of subdivision (1) or (2) of subsection 1 of this section shall be punishable by imprisonment in the county jail for a term not to exceed one year and/or a fine not to exceed one thousand dollars.** Any person convicted a third or subsequent time of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a class D felony. Notwithstanding the provisions of section 302.340, violation of subdivisions (3) and (4) of subsection 1 of this section is a **[**class C**]** misdemeanor**, the first violation punishable by a fine not to exceed three hundred dollars, a second or subsequent violation of this section punishable as a class C misdemeanor,** and the penalty

for failure to wear protective headgear as required by subsection 2 of this section is an infraction for which a fine not to exceed twenty-five dollars may be imposed.

Notwithstanding all other provisions of law and court rules to the contrary, no court costs shall be imposed upon any person due to such violation. No points shall be assessed pursuant to section 302.302 for a failure to wear such protective headgear. **Prior pleas of guilty and prior findings of guilty shall be pleaded and proven in the same manner as required by section 558.021.**

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

2. Any person convicted of driving while revoked is guilty of a **[**class A**]** misdemeanor. **A first violation of this section shall be punishable by a fine not to exceed three hundred dollars. A second or third violation of this section shall be punishable by imprisonment in the county jail for a term not to exceed one year and/or a fine not to exceed one thousand dollars.** Any person with no prior alcohol-related enforcement contacts as defined in section 302.525, convicted a fourth or subsequent time of driving while revoked or a county or municipal ordinance of driving while suspended or revoked where the defendant was represented by or waived the right to an attorney in writing, and where the prior three driving-while-revoked offenses occurred within ten years of the date of occurrence of the present offense; and any person with a prior alcohol-related enforcement contact as defined in section 302.525, convicted a third or subsequent time of driving while revoked or a county or municipal ordinance of driving while suspended or revoked where the defendant was represented by or waived the right to an attorney in writing, and where the prior two driving-while-revoked offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offenses is guilty of a class D felony. **Except upon conviction as a first offense,** no court shall suspend the imposition of sentence as to such a person nor sentence such person to pay a fine in lieu of a term of imprisonment, nor shall such person be eligible for parole or probation until such person has served a minimum of forty-eight consecutive hours of imprisonment, unless as a condition of such parole or probation, such person performs at least ten days involving at least forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. Driving while revoked is a class D felony on the second or subsequent conviction pursuant to section 577.010 or a fourth or subsequent conviction for any other offense. **Prior pleas of guilty and prior findings of guilty shall be pleaded and proven in the same manner as required by section 558.021.**

303.025. DUTY TO MAINTAIN FINANCIAL RESPONSIBILITY, RESIDENTS AND NONRESIDENTS, MISDEMEANOR PENALTY FOR FAILURE TO MAINTAIN — EXCEPTION, METHODS — COURT TO NOTIFY DEPARTMENT OF REVENUE, ADDITIONAL PUNISHMENT, RIGHT OF APPEAL. — 1. No owner of a motor vehicle registered in this state, or required to be registered in this state, shall operate, register or maintain registration of a motor vehicle, or permit another person to operate such vehicle, unless the owner maintains the financial responsibility which conforms to the requirements of the laws of this state. No nonresident shall operate or permit another person to operate in this state a motor vehicle registered to such nonresident unless the nonresident maintains the financial responsibility which conforms to the requirements of the laws of the nonresident's state of residence. Furthermore, no person shall operate a motor

vehicle owned by another with the knowledge that the owner has not maintained financial responsibility unless such person has financial responsibility which covers the person's operation of the other's vehicle; however, no owner or nonresident shall be in violation of this subsection if he or she fails to maintain financial responsibility on a motor vehicle which is inoperable or being stored and not in operation. The director may prescribe rules and regulations for the implementation of this section.

2. A motor vehicle owner shall maintain the owner's financial responsibility in a manner provided for in section 303.160, or with a motor vehicle liability policy which conforms to the requirements of the laws of this state. A nonresident motor vehicle owner shall maintain the owner's financial responsibility which conforms to the requirements of the laws of the nonresident's state of residence.

3. Any person who violates this section is guilty of a **[**class C**]** misdemeanor. **A first violation of this section shall be punishable by a fine not to exceed three hundred dollars. A second or subsequent violation of this section shall be punishable by imprisonment in the county jail for a term not to exceed fifteen days and/or a fine not to exceed three hundred dollars. Prior pleas of guilty and prior findings of guilty shall be pleaded and proven in the same manner as required by section 558.021.** However, no person shall be found guilty of violating this section if the operator demonstrates to the court that he or she met the financial responsibility requirements of this section at the time the peace officer, commercial vehicle enforcement officer or commercial vehicle inspector wrote the citation. In addition to any other authorized punishment, the court shall notify the director of revenue of any person convicted pursuant to this section and shall do one of the following:

(1) Enter an order suspending the driving privilege as of the date of the court order. If the court orders the suspension of the driving privilege, the court shall require the defendant to surrender to it any driver's license then held by such person. The length of the suspension shall be as prescribed in subsection 2 of section 303.042. The court shall forward to the director of revenue the order of suspension of driving privilege and any license surrendered within ten days;

(2) Forward the record of the conviction for an assessment of four points;

(3) In lieu of an assessment of points, render an order of supervision as provided in section 302.303. An order of supervision shall not be used in lieu of points more than one time in any thirty-six-month period. Every court having jurisdiction pursuant to the provisions of this section shall forward a record of conviction to the Missouri state highway patrol, or at the written direction of the Missouri state highway patrol, to the department of revenue, in a manner approved by the director of the department of public safety. The director shall establish procedures for the record keeping and administration of this section; or

(4) For a nonresident, suspend the nonresident's driving privileges in this state in accordance with section 303.030 and notify the official in charge of the issuance of licenses and registration certificates in the state in which such nonresident resides in accordance with section 303.080.

4. Nothing in sections 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330 and 303.370 shall be construed as prohibiting the department of insurance, financial institutions and professional registration from approving or authorizing those exclusions and limitations which are contained in automobile liability insurance policies and the uninsured motorist provisions of automobile liability insurance policies.

5. If a court enters an order of suspension, the offender may appeal such order directly pursuant to chapter 512 and the provisions of section 302.311 shall not apply.

311.325. PURCHASE OR POSSESSION BY MINOR, A MISDEMEANOR — CONTAINER NEED NOT BE OPENED AND CONTENTS VERIFIED, WHEN — CONSENT TO CHEMICAL TESTING DEEMED GIVEN, WHEN — BURDEN OF PROOF ON VIOLATOR TO PROVE NOT INTOXICATING LIQUOR — SECTION NOT APPLICABLE TO CERTAIN STUDENTS, REQUIREMENTS. — 1. Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor as defined in section 311.020 or who is visibly in an

intoxicated condition as defined in section 577.001, or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood is guilty of a misdemeanor. **A first violation of this section shall be punishable by a fine not to exceed three hundred dollars. A second or subsequent violation of this section shall be punishable by imprisonment in the county jail for a term not to exceed one year and/or a fine not to exceed one thousand dollars. Prior pleas of guilty and prior findings of guilty shall be pleaded and proven in the same manner as required by section 558.021.** For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

2. For purposes of determining violations of any provision of this chapter, or of any rule or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

3. Any person under the age of twenty-one years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated condition as defined in section 577.001, shall be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood. The implied consent to submit to the chemical tests listed in this subsection shall be limited to not more than two such tests arising from the same arrest, incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be performed according to methods approved by the state department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose. The state department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to be considered valid and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the state department of health and senior services. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. Full information is limited to the following:

(1) The type of test administered and the procedures followed;

(2) The time of the collection of the blood or breath sample or urine analyzed;

(3) The numerical results of the test indicating the alcohol content of the blood and breath and urine;

(4) The type and status of any permit which was held by the person who performed the test;

(5) If the test was administered by means of a breath-testing instrument, the date of performance of the most recent required maintenance of such instrument. Full information does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the state. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

4. The provisions of this section shall not apply to a student who:

(1) Is eighteen years of age or older;

(2) Is enrolled in an accredited college or university and is a student in a culinary course;

(3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and

(4) Tastes a beverage under subdivision (3) of this subsection only for instructional purposes during classes that are part of the curriculum of the accredited college or university. The beverage must at all times remain in the possession and control of an authorized instructor of the college or university, who must be twenty-one years of age or older. Nothing in this subsection may be construed to allow a student under the age of twenty-one to receive any beer, ale, porter, wine, or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted as part of the curriculum.

351.340. BOARD MEETINGS, WHERE AND HOW HELD. — 1. Regular meetings of the board of directors may be held with or without notice as the bylaws may prescribe. Special meetings of the board of directors shall be held upon such notice as the bylaws may prescribe. Attendance of a director at any meeting shall constitute a waiver of notice of the meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular meeting of the board of directors need be specified in the notice or waiver of notice of the meeting.

2. Any action which is required to be or may be taken at a meeting of the directors, or of the executive committee or any other committee of the directors, may be taken without a meeting if **[**consents in writing**]**, setting forth the action so taken, **[**are signed by**]** all of the members of the board or of the committee as the case may be**, consent thereto in writing or by electronic transmission**. The consents shall have the same force and effect as a unanimous vote at a meeting duly held, and may be stated as such in any certificate or document filed under this chapter. The secretary shall file the **[**consents**] writing or writings or electronic transmission or transmissions** with the minutes of the meetings of the board of directors or of the committee as the case may be. **Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form. "Electronic transmission" for purposes of this section shall be as defined in subdivision (2) of subsection 5 of section 351.245.**

452.340. CHILD SUPPORT, HOW ALLOCATED — FACTORS TO BE CONSIDERED — ABATEMENT OR TERMINATION OF SUPPORT, WHEN — SUPPORT AFTER AGE EIGHTEEN, WHEN — PUBLIC POLICY OF STATE — PAYMENTS MAY BE MADE DIRECTLY TO CHILD, WHEN — CHILD SUPPORT GUIDELINES, REBUTTABLE PRESUMPTION, USE OF GUIDELINES, WHEN — RETROACTIVITY — OBLIGATION TERMINATED, HOW. — 1. In a proceeding for dissolution of marriage, legal separation or child support, the court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the support of the child, including an award retroactive to the date of filing the petition, without regard to marital misconduct, after considering all relevant factors including:

(1) The financial needs and resources of the child;

(2) The financial resources and needs of the parents;

(3) The standard of living the child would have enjoyed had the marriage not been dissolved;

(4) The physical and emotional condition of the child, and the child's educational needs;

(5) The child's physical and legal custody arrangements, including the amount of time the child spends with each parent and the reasonable expenses associated with the custody or visitation arrangements; and

(6) The reasonable work-related child care expenses of each parent.

2. The obligation of the parent ordered to make support payments shall abate, in whole or in part, for such periods of time in excess of thirty consecutive days that the other parent has voluntarily relinquished physical custody of a child to the parent ordered to pay child support, notwithstanding any periods of visitation or temporary physical and legal or physical or legal custody pursuant to a judgment of dissolution or legal separation or any modification thereof. In a IV-D case, the family support division may determine the amount of the abatement pursuant to this subsection for any child support order and shall record the amount of abatement in the automated child support system record established pursuant to chapter 454. If the case is not a IV-D case and upon court order, the circuit clerk shall record the amount of abatement in the automated child support system record established in chapter 454.

3. Unless the circumstances of the child manifestly dictate otherwise and the court specifically so provides, the obligation of a parent to make child support payments shall terminate when the child:

(1) Dies;

(2) Marries;

(3) Enters active duty in the military;

(4) Becomes self-supporting, provided that the custodial parent has relinquished the child from parental control by express or implied consent;

(5) Reaches age eighteen, unless the provisions of subsection 4 or 5 of this section apply; or

(6) Reaches age twenty-one, unless the provisions of the child support order specifically extend the parental support order past the child's twenty-first birthday for reasons provided by subsection 4 of this section.

4. If the child is physically or mentally incapacitated from supporting himself and insolvent and unmarried, the court may extend the parental support obligation past the child's eighteenth birthday.

5. If when a child reaches age eighteen, the child is enrolled in and attending a secondary school program of instruction, the parental support obligation shall continue, if the child continues to attend and progresses toward completion of said program, until the child completes such program or reaches age twenty-one, whichever first occurs. If the child is enrolled in an institution of vocational or higher education not later than October first following graduation from a secondary school or completion of a graduation equivalence degree program and so long as the child enrolls for and completes at least twelve hours of credit each semester, not including the summer semester, at an institution of vocational or higher education and achieves grades sufficient to reenroll at such institution, the parental support obligation shall continue until the child completes his or her education, or until the child reaches the age of twenty-one, whichever first occurs. To remain eligible for such continued parental support, at the beginning of each semester the child shall submit to each parent a transcript or similar official document provided by the institution of vocational or higher education which includes the courses the child is enrolled in and has completed for each term, the grades and credits received for each such course, and an official document from the institution listing the courses which the child is enrolled in for the upcoming term and the number of credits for each such course. When enrolled in at least twelve credit hours, if the child receives failing grades in half or more of his or her courseload in any one semester, payment of child support may be terminated and shall not be eligible for reinstatement. Upon request for notification of the child's grades by the noncustodial parent, the child shall produce the required documents to the noncustodial parent within thirty days of receipt of grades from the education institution. If the child fails to produce the required documents, payment of child support may terminate without the accrual of any child support arrearage and shall not be eligible for reinstatement. If the circumstances of the child manifestly dictate, the court may waive the October first deadline for enrollment required by this subsection. If the child is enrolled in such an institution, the child or parent obligated to pay support may

petition the court to amend the order to direct the obligated parent to make the payments directly to the child. As used in this section, an "institution of vocational education" means any postsecondary training or schooling for which the student is assessed a fee and attends classes regularly. "Higher education" means any community college, college, or university at which the child attends classes regularly. A child who has been diagnosed with a developmental disability, as defined in section 630.005, or whose physical disability or diagnosed health problem limits the child's ability to carry the number of credit hours prescribed in this subsection, shall remain eligible for child support so long as such child is enrolled in and attending an institution of vocational or higher education, and the child continues to meet the other requirements of this subsection. A child who is employed at least fifteen hours per week during the semester may take as few as nine credit hours per semester and remain eligible for child support so long as all other requirements of this subsection are complied with.

6. The court shall consider ordering a parent to waive the right to claim the tax dependency exemption for a child enrolled in an institution of vocational or higher education in favor of the other parent if the application of state and federal tax laws and eligibility for financial aid will make an award of the exemption to the other parent appropriate.

7. The general assembly finds and declares that it is the public policy of this state that frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage is in the best interest of the child except for cases where the court specifically finds that such contact is not in the best interest of the child. In order to effectuate this public policy, a court with jurisdiction shall enforce visitation, custody and child support orders in the same manner. A court with jurisdiction may abate, in whole or in part, any past or future obligation of support and may transfer the physical and legal or physical or legal custody of one or more children if it finds that a parent has, without good cause, failed to provide visitation or physical and legal or physical or legal custody to the other parent pursuant to the terms of a judgment of dissolution, legal separation or modifications thereof. The court shall also award, if requested and for good cause shown, reasonable expenses, attorney's fees and court costs incurred by the prevailing party.

8. The Missouri supreme court shall have in effect a rule establishing guidelines by which any award of child support shall be made in any judicial or administrative proceeding. Said guidelines shall contain specific, descriptive and numeric criteria which will result in a computation of the support obligation. The guidelines shall address how the amount of child support shall be calculated when an award of joint physical custody results in the child or children spending **equal or** substantially equal time with both parents **and the directions and comments and any tabular representations of the directions and comments for completion of the child support guidelines and a subsequent form developed to reflect the guidelines, shall reflect the ability to obtain up to a fifty percent adjustment or credit below the basic child support amount for joint physical custody or visitation as described in subsection 11 of this section**. The Missouri supreme court shall publish child support guidelines and specifically list and explain the relevant factors and assumptions that were used to calculate the child support guidelines. Any rule made pursuant to this subsection shall be reviewed by the promulgating body not less than once every four years to ensure that its application results in the determination of appropriate child support award amounts.

9. There shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the guidelines established pursuant to subsection 8 of this section is the correct amount of child support to be awarded. A written finding or specific finding on the record in a judicial or administrative proceeding that the application of the guidelines would be unjust or inappropriate in a particular case, after considering all relevant factors, including the factors set out in subsection 1 of this section, is required if requested by a party and shall be sufficient to rebut the presumption in the case. The written finding or specific finding on the record shall detail the specific relevant factors that required a deviation from the application of the guidelines.

10. Pursuant to this or any other chapter, when a court determines the amount owed by a parent for support provided to a child by another person, other than a parent, prior to the date of filing of a petition requesting support, or when the director of the family support division establishes the amount of state debt due pursuant to subdivision (2) of subsection 1 of section 454.465, the court or director shall use the guidelines established pursuant to subsection 8 of this section. The amount of child support resulting from the application of the guidelines shall be applied retroactively for a period prior to the establishment of a support order and the length of the period of retroactivity shall be left to the discretion of the court or director. There shall be a rebuttable presumption that the amount resulting from application of the guidelines under subsection 8 of this section constitutes the amount owed by the parent for the period prior to the date of the filing of the petition for support or the period for which state debt is being established. In applying the guidelines to determine a retroactive support amount, when information as to average monthly income is available, the court or director may use the average monthly income of the noncustodial parent, as averaged over the period of retroactivity, in determining the amount of presumed child support owed for the period of retroactivity. The court or director may enter a different amount in a particular case upon finding, after consideration of all relevant factors, including the factors set out in subsection 1 of this section, that there is sufficient cause to rebut the presumed amount.

11. **The court may award child support in an amount that provides up to a fifty percent adjustment below the basic child support amount authorized by the child support guidelines described under subsection 8 of this section for custody awards of joint physical custody where the child or children spend equal or substantially equal time with both parents.**

12. The obligation of a parent to make child support payments may be terminated as follows:

(1) Provided that the state case registry or child support order contains the child's date of birth, the obligation shall be deemed terminated without further judicial or administrative process when the child reaches age twenty-one if the child support order does not specifically require payment of child support beyond age twenty-one for reasons provided by subsection 4 of this section;

(2) The obligation shall be deemed terminated without further judicial or administrative process when the parent receiving child support furnishes a sworn statement or affidavit notifying the obligor parent of the child's emancipation in accordance with the requirements of subsection 4 of section 452.370, and a copy of such sworn statement or affidavit is filed with the court which entered the order establishing the child support obligation, or the family support division for an order entered under section 454.470;

(3) The obligation shall be deemed terminated without further judicial or administrative process when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the family support division for an order entered under section 454.470, stating that the child is emancipated and reciting the factual basis for such statement; which statement or affidavit is served by the court or division, as applicable, on the child support obligee; and which is either acknowledged and affirmed by the child support obligee in writing, or which is not responded to in writing within thirty days of receipt by the child support obligee;

(4) The obligation shall be terminated as provided by this subdivision by the court which entered the order establishing the child support obligation, or the family support division for an order entered under section 454.470, when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the family support division, as applicable, stating that the child is emancipated and reciting the factual basis for such statement; and which statement or affidavit is served by the court or division, as applicable, on the child support obligee. If the obligee denies the statement or affidavit, the court or division shall thereupon treat the sworn statement or affidavit as a

request for hearing and shall proceed to hear and adjudicate such request for hearing as provided by law; provided that the court may require the payment of a deposit as security for court costs and any accrued court costs, as provided by law, in relation to such request for hearing. When the division receives a request for hearing, the hearing shall be held in the manner provided by section 454.475.

[12.**] 13.** The court may enter a judgment terminating child support pursuant to subdivisions (1) to (3) of subsection **[**11**] 12** of this section without necessity of a court appearance by either party. The clerk of the court shall mail a copy of a judgment terminating child support entered pursuant to subsection **[**11**] 12** of this section on both the obligor and obligee parents. The supreme court may promulgate uniform forms for sworn statements and affidavits to terminate orders of child support obligations for use pursuant to subsection **[**11**] 12** of this section and subsection 4 of section 452.370.

455.007. MOOTNESS DOCTRINE, PUBLIC INTEREST EXCEPTION TO APPLY, WHEN. — Notwithstanding any other provision of law to the contrary, the public interest exception to the mootness doctrine shall apply to an appeal of a full order of protection which:

(1) Has expired; and

(2) Subjects the person against whom such order is issued to significant collateral consequences by the mere existence of such full order of protection after its expiration.

475.060. APPLICATION FOR GUARDIANSHIP — PETITION FOR GUARDIANSHIP REQUIREMENTS — INCAPACITATED PERSONS, PETITION REQUIREMENTS. — 1. Any person may file a petition for the appointment of himself **or herself** or some other qualified person as guardian of a minor **[**or guardian of an incapacitated person**]**. Such petition shall state:

(1) The name, age, domicile, actual place of residence and post office address of the minor **[**or incapacitated person**]** if known and if any of these facts is unknown, the efforts made to ascertain that fact;

(2) The estimated value of **[**his**] the minor's** real and personal property**, and the location and value of any real property owned by the minor outside of this state**;

(3) If the minor **[**or incapacitated person**]** has no domicile or place of residence in this state, the county in which the property or major part thereof of the minor **[**or incapacitated person**]** is located;

(4) The name and address of the parents of the minor **[**or incapacitated person**]** and whether they are living or dead;

(5) The name and address of the spouse, and the names, ages and addresses of all living children of the minor **[**or incapacitated person**]**;

(6) The name and address of the person having custody of the person of the minor **[**or incapacitated person**]**;

(7) The name and address of any guardian of the person or conservator of the estate of the minor **[**or incapacitated person**]** appointed in this or any other state;

(8) If appointment is sought for a natural person, other than the public administrator, the names and addresses of wards and disabled persons for whom such person is already guardian or conservator;

(9) **[**In the case of an incapacitated person, the fact that the person for whom guardianship is sought is unable by reason of some specified physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the person lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care such that serious physical injury, illness or disease is likely to occur**] The name and address of the trustees and the purpose of any trust of which the minor is a qualified beneficiary**;

(10) The reasons why the appointment of a guardian is sought;

(11) A petition for the appointment of a guardian of a minor may be filed for the sole and specific purpose of school registration or medical insurance coverage. Such a petition shall clearly set out this limited request and shall not be combined with a petition for conservatorship.

2. Any person may file a petition for the appointment of himself or herself or some other qualified person as guardian of an incapacitated person. Such petition shall state:

(1) If known, the name, age, domicile, actual place of residence, and post office address of the alleged incapacitated person, and for the period of three years before the filing of the petition, the most recent addresses, up to three, at which the alleged incapacitated person lived prior to the most recent address, and if any of these facts is unknown, the efforts made to ascertain that fact. In the case of a petition filed by a public official in his or her official capacity, the information required by this subdivision need only be supplied to the extent it is reasonably available to the petitioner;

(2) The estimated value of the alleged incapacitated person's real and personal property, and the location and value of any real property owned by the alleged incapacitated person outside of this state;

(3) If the alleged incapacitated person has no domicile or place of residence in this state, the county in which the property or major part thereof of the alleged incapacitated person is located;

(4) The name and address of the parents of the alleged incapacitated person and whether they are living or dead;

(5) The name and address of the spouse, the names, ages, and addresses of all living children of the alleged incapacitated person, the names and addresses of the alleged incapacitated person's closest known relatives, and the names and relationship, if known, of any adults living with the alleged incapacitated person; if no spouse, adult child, or parent is listed, the names and addresses of the siblings and children of deceased siblings of the alleged incapacitated person; the name and address of any agent appointed by the alleged incapacitated person in any durable power of attorney, and of the presently acting trustees of any trust of which the alleged incapacitated person is the grantor or is a qualified beneficiary or is or was the trustee or co-trustee and the purpose of the power of attorney or trust;

(6) The name and address of the person having custody of the person of the alleged incapacitated person;

(7) The name and address of any guardian of the person or conservator of the estate of the alleged incapacitated person appointed in this or any other state;

(8) If appointment is sought for a natural person, other than the public administrator, the names and addresses of wards and disabled persons for whom such person is already guardian or conservator;

(9) The fact that the person for whom guardianship is sought is unable by reason of some specified physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the person lacks capacity to meet essential requirements for food, clothing, shelter, safety, or other care such that serious physical injury, illness, or disease is likely to occur;

(10) The reasons why the appointment of a guardian is sought.

475.061. APPLICATION FOR CONSERVATORSHIP — MAY COMBINE WITH PETITION FOR GUARDIAN OF PERSON. — 1. Any person may file a petition in the probate division of the circuit court of the county of proper venue for the appointment of himself or some other qualified person as conservator of the estate of a minor or disabled person. The petition shall contain the same allegations as are set forth in subdivisions (1), (8), and (10) **of subsection 2** of section 475.060 with respect to the appointment of a guardian for an incapacitated person and, in addition thereto, an allegation that the respondent is unable by reason of some specific physical or mental condition to receive and evaluate information or to communicate decisions to such an

extent that the respondent lacks ability to manage his financial resources or that the respondent is under the age of eighteen years.

2. A petition for appointment of a conservator or limited conservator of the estate may be combined with a petition for appointment of a guardian or limited guardian of the person. In such a combined petition allegations need not be repeated.

475.115. APPOINTMENT OF SUCCESSOR GUARDIAN OR CONSERVATOR — TRANSFER OF CASE, PROCEDURE. — 1. When a guardian or conservator dies, is removed by order of the court, or resigns and his **or her** resignation is accepted by the court, the court shall have the same authority as it has in like cases over personal representatives and their sureties and may appoint another guardian or conservator in the same manner and subject to the same requirements as are herein provided for an original appointment of a guardian or conservator.

2. A public administrator may request transfer of any case to the jurisdiction of another county by filing a petition for transfer. If the receiving county meets the venue requirements of section 475.035 and the public administrator of the receiving county consents to the transfer, the court shall transfer the case. The court with jurisdiction over the receiving county shall, without the necessity of any hearing as required by section 475.075, appoint the public administrator of the receiving county as successor guardian and/or successor conservator and issue letters therein. In the case of a conservatorship, the final settlement of the public administrator's conservatorship shall be filed within thirty days of the court's transfer of the case, in the court with jurisdiction over the original conservatorship, and forwarded to the receiving county upon audit and approval.

ARTICLE 1
GENERAL PROVISIONS

475.501. SHORT TITLE. — Sections 475.501 to 475.555 may be cited as the "Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act".

475.502. DEFINITIONS. — Notwithstanding the definitions in section 475.010, when used in sections 475.501 to 475.555, the following terms mean:

(1) "Adult", an individual who has attained eighteen years of age;

(2) "Conservator", a person appointed by the court to administer the property of an adult, including a person appointed under this chapter;

(3) "Guardian", a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under this chapter;

(4) "Guardianship order", an order appointing a guardian;

(5) "Guardianship proceeding", a proceeding in which an order for the appointment of a guardian is sought or has been issued;

(6) "Incapacitated person", an adult for whom a guardian has been appointed;

(7) "Party", the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding;

(8) "Person", except in the term "incapacitated person" or "protected person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

(9) "Protected person", an adult for whom a protective order has been issued;

(10) "Protective order", an order appointing a conservator or other order related to management of an adult's property;

(11) "Protective proceeding", a judicial proceeding in which a protective order is sought or has been issued;

(12) "Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(13) "Respondent", an adult for whom a protective order or the appointment of a guardian is sought;

(14) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

475.503. INTERNATIONAL APPLICATION OF ACT. — A court of this state may treat a foreign country as if it were a state for the purpose of applying this article and articles 2, 3, and 5.

475.504. COMMUNICATION BETWEEN COURTS. — 1. A court of this state may communicate with a court in another state concerning a proceeding arising under sections 475.501 to 475.555. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection 2 of this section, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

2. Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.

475.505. COOPERATION BETWEEN COURTS. — 1. In a guardianship or protective proceeding in this state, a court of this state may request the appropriate court of another state to:

(1) Hold an evidentiary hearing;

(2) Order a person in that state to produce evidence or give testimony pursuant to procedures of that state;

(3) Order that an evaluation or assessment be made of the respondent;

(4) Order any appropriate investigation of a person involved in a proceeding;

(5) Forward to the court of this state a certified copy of the transcript or other record of a hearing under subdivision (1) of subsection 1 of this section or any other proceeding, any evidence otherwise produced under subdivision (2) of subsection 1 of this section, and any evaluation or assessment prepared in compliance with an order under subdivisions (3) and (4) of subsection 1 of this section;

(6) Issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated or protected person;

(7) Issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in 45 CFR 160.103, as amended.

2. If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in subsection 1 of this section, a court of this state has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

475.506. TAKING TESTIMONY IN ANOTHER STATE. — 1. In a guardianship or protective proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

2. In a guardianship or protective proceeding, a court in this state may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this state shall cooperate with court of the other state in designating an appropriate location for the deposition or testimony.

3. Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the best evidence rule.

ARTICLE 2
JURISDICTION

475.521. DEFINITIONS — SIGNIFICANT CONNECTION FACTORS. — 1. In this article, the following terms mean:

(1) "Emergency", a circumstance that likely will result in substantial harm to a respondent's health, safety, or welfare, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent's behalf;

(2) "Home state", the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian; or if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition;

(3) "Significant-connection state", a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

2. In determining under section 475.523 and subsection 5 of section 475.531 whether a respondent has a significant connection with a particular state, the court shall consider:

(1) The location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding;

(2) The length of time the respondent at any time was physically present in the state and the duration of any absence;

(3) The location of the respondent's property; and

(4) The extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver's license, social relationship, and receipt of services.

475.522. EXCLUSIVE BASIS. — This article provides the exclusive jurisdictional basis for a court of this state to appoint a guardian or issue a protective order for an adult.

475.523. JURISDICTION. — A court of this state has jurisdiction to appoint a guardian or issue a protective order for a respondent if:

(1) This state is the respondent's home state;

(2) On the date a petition is filed, this state is a significant-connection state and:

(a) The respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this state is a more appropriate forum; or

(b) The respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state, and, before the court makes the appointment or issues the order:

a. A petition for an appointment or order is not filed in the respondent's home state;

b. An objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding; and

c. The court in this state concludes that it is an appropriate forum under the factors set forth in section 475.526;

(3) This state does not have jurisdiction under either subdivisions (1) or (2) of this section, the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the constitutions of this state and the United States; or

(4) The requirements for special jurisdiction under section 475.524 are met.

475.524. SPECIAL JURISDICTION. — 1. A court of this state lacking jurisdiction under section 475.523 has special jurisdiction to do any of the following:

(1) Appoint a guardian in an emergency for a term not exceeding ninety days for a respondent who is physically present in this state;

(2) Issue a protective order with respect to real or tangible personal property located in this state;

(3) Appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to section 475.531.

2. If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

475.525. EXCLUSIVE AND CONTINUING JURISDICTION. — Except as otherwise provided in section 475.524, a court that has appointed a guardian or issued a protective order consistent with sections 475.501 to 475.555 has exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own terms.

475.526. APPROPRIATE FORUM. — 1. A court of this state having jurisdiction under section 475.523 to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

2. If a court of this state declines to exercise its jurisdiction under subsection 1 of this section, it shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or protective order be promptly filed in another state.

3. In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:

(1) Any expressed preference of the respondent;

(2) Whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;

(3) The length of time the respondent was physically present in or was a legal resident of this or another state;

(4) The distance of the respondent from the court in each state;

(5) The financial circumstances of the respondent's estate;

(6) The nature and location of the evidence;

(7) The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;

(8) The familiarity of the court of each state with the facts and issues in the proceeding; and

(9) If an appointment were made, the court's ability to monitor the conduct of the guardian or conservator.

475.527. JURISDICTION DECLINED BY REASON OF CONDUCT. — 1. If at any time a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may:

(1) Decline to exercise jurisdiction;

(2) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or

(3) Continue to exercise jurisdiction after considering:

(a) The extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(b) Whether it is a more appropriate forum than the court of any other state under the factors set forth in subsection 3 of section 475.526; and

(c) Whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of section 475.523.

2. If a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against that party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by law other than sections 475.501 to 475.555.

475.528. NOTICE OF PROCEEDING. — If a petition for the appointment of a guardian or issuance of a protective order is brought in this state and this state was not the respondent's home state on the date the petition was filed, in addition to complying with the notice requirements of this state, notice of the petition shall be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice shall be given in the same manner as notice is required to be given in this state.

475.529. PROCEEDINGS IN MORE THAN ONE STATE. — Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this state as provided in subdivision (1) or (2) of subsection 1 of section 475.524, if a petition for the appointment of a guardian or issuance of a protective order is filed in this and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

(1) If the court in this state has jurisdiction under section 475.523, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to section 475.523 before the appointment or issuance of the order.

(2) If the court in this state does not have jurisdiction under section 475.523, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court in this state shall dismiss the

petition unless the court in the other state determines that the court in this state is a more appropriate forum.

ARTICLE 3
TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP

475.531. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE. — 1. A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

2. Notice of a petition under subsection 1 of this section shall be given to those persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.

3. On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to subsection 1 of this section.

4. The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds that:

(1) The incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and

(3) Plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

5. The court shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds that:

(1) The protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors set forth in subsection 2 of section 475.521;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and

(3) Adequate arrangements will be made for management of the protected person's property.

6. The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of:

(1) A provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to section 475.532; and

(2) The documents required to terminate a guardianship or conservatorship in this state.

475.532. ACCEPTING GUARDIANSHIP OR CONSERVATORSHIP TRANSFERRED FROM ANOTHER STATE. — 1. To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to those in section 475.531, the guardian or conservator shall petition the court in this state to accept the guardianship or conservatorship. The petition shall include a certified copy of the other state's provisional order of transfer.

2. Notice of a petition under subsection 1 of this section shall be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this state. The notice shall be given in the same manner as notice is required to be given in this state.

3. On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to subsection 1 of this section.

4. The court shall issue an order provisionally granting a petition filed under subsection 1 of this section unless:

(1) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person; or

(2) The guardian or conservator is ineligible for appointment in this state.

5. The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to section 475.531 transferring the proceeding to this state.

6. Not later than ninety days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the law of this state.

7. In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated or protected person's incapacity and the appointment of the guardian or conservator.

8. The denial by a court of this state of a petition to accept guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in this state under this chapter if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

ARTICLE 4
REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES

475.541. REGISTRATION OF GUARDIANSHIP ORDERS. — If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this state by filing as a foreign judgment in a court, in any appropriate county of this state, certified copies of the order and letters of office.

475.542. REGISTRATION OF PROTECTIVE ORDERS. — If a conservator has been appointed in another state and a petition for a protective order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this state by filing as a foreign judgment in a court of this state, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

475.543. EFFECT OF REGISTRATION. — 1. Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian

or conservator is not a resident of this state, subject to any conditions imposed upon nonresident parties.

2. A court of this state may grant any relief available under sections 475.501 to 475.555 and other law of this state to enforce a registered order.

475.544. STATE LAW APPLICABILITY. — Except where inconsistent with sections 475.541, 475.542, and 475.543, the laws of this state relating to the registration and recognition of the acts of a foreign guardian, curator, or conservator contained in sections 475.335 to 475.340 shall be applicable.

ARTICLE 5
MISCELLANEOUS PROVISIONS

475.551. UNIFORMITY OF APPLICATION AND CONSTRUCTION. — In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

475.552. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. — Sections 475.501 to 475.555 modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

475.555. EFFECTIVE DATE. — 1. Sections 475.501 to 475.555 apply to guardianship and protective proceedings begun on or after August 28, 2011.

2. Articles 1, 3, 4, and sections 475.551 and 475.552 apply to proceedings begun before August 28, 2011, regardless of whether a guardianship or protective order has been issued.

477.650. BASIC CIVIL LEGAL SERVICES FUND CREATED, MONEYS TO BE USED TO INCREASE FUNDING FOR LEGAL SERVICES TO ELIGIBLE LOW-INCOME PERSONS — ALLOCATION OF MONEYS — RECORD-KEEPING REQUIREMENTS — REPORT TO GENERAL ASSEMBLY — EXPIRATION DATE. — 1. There is hereby created in the state treasury the "Basic Civil Legal Services Fund", to be administered by, or under the direction of, the Missouri supreme court. All moneys collected under section 488.031 shall be credited to the fund. In addition to the court filing surcharges, funds from other public or private sources also may be deposited into the fund and all earnings of the fund shall be credited to the fund. The purpose of this section is to increase the funding available for basic civil legal services to eligible low-income persons as such persons are defined by the Federal Legal Services Corporation's Income Eligibility Guidelines.

2. Funds in the basic civil legal services fund shall be allocated annually and expended to provide legal representation to eligible low-income persons in the state in civil matters. Moneys, funds, or payments paid to the credit of the basic civil legal services fund shall, at least as often as annually, be distributed to the legal services organizations in this state which qualify for Federal Legal Services Corporation funding. The funds so distributed shall be used by legal services organizations in this state solely to provide legal services to eligible low-income persons as such persons are defined by the Federal Legal Services Corporation's Income Eligibility Guidelines. Fund money shall be subject to all restrictions imposed on such legal services organizations by law. Funds shall be allocated to the programs according to the funding formula employed by the Federal Legal Services Corporation for the distribution of funds to this state. Notwithstanding the provisions of section 33.080, any balance remaining in the basic civil legal

services fund at the end of any year shall not be transferred to the state's general revenue fund. Moneys in the basic civil legal services fund shall not be used to pay any portion of a refund mandated by article X, section 15 of the Missouri Constitution. State legal services programs shall represent individuals to secure lawful state benefits, but shall not sue the state, its agencies, or its officials, with any state funds.

3. Contracts for services with state legal services programs shall provide eligible low-income Missouri citizens with equal access to the civil justice system, with a high priority on families and children, domestic violence, the elderly, and qualification for benefits under the Social Security Act. State legal services programs shall abide by all restrictions, requirements, and regulations of the Legal Services Corporation regarding their cases.

4. The Missouri supreme court, or a person or organization designated by the court, is the administrator and shall administer the fund in such manner as determined by the Missouri supreme court, including in accordance with any rules and policies adopted by the Missouri supreme court for such purpose. Moneys from the fund shall be used to pay for the collection of the fee and the implementation and administration of the fund.

5. Each recipient of funds from the basic civil legal services fund shall maintain appropriate records accounting for the receipt and expenditure of all funds distributed and received pursuant to this section. These records must be maintained for a period of five years from the close of the fiscal year in which such funds are distributed or received or until audited, whichever is sooner. All funds distributed or received pursuant to this section are subject to audit by the Missouri supreme court or the state auditor.

6. The Missouri supreme court, or a person or organization designated by the court, shall, by January thirty-first of each year, report to the general assembly on the moneys collected and disbursed pursuant to this section and section 488.031 by judicial circuit.

7. The provisions of this section shall expire on December 31, **[**2012**] 2018**.

484.350. STANDARDS FOR REPRESENTATION TO BE UPDATED AND ADOPTED STATEWIDE, WHEN. — Recognizing that Missouri children have a right to adequate and effective representation in child welfare cases, the September 17, 1996, Missouri supreme court standards for representation by guardians ad litem shall be **updated and** adopted statewide and each circuit shall devise a plan for implementation which takes into account the individual needs of their circuit as well as the negative impact that excessive caseloads have upon effectiveness of counsel. These plans shall be approved by the supreme court en banc and fully implemented by July 1, 2011.

523.040. APPOINTMENT OF COMMISSIONERS — DUTIES — NOTICE OF PROPERTY VIEWING. — 1. The court, or judge thereof in vacation, on being satisfied that due notice of the pendency of the petition has been given, shall appoint three disinterested commissioners, who shall be residents of the county in which the real estate or a part thereof is situated**, and in any city not within a county, any county with a charter form of government and with more than one million inhabitants, or any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants at least one of the commissioners shall be either a licensed real estate broker or a state-licensed or state-certified real estate appraiser**, to assess the damages which the owners may severally sustain by reason of such appropriation, who, within forty-five days after appointment by the court, which forty-five days may be extended by the court to a date certain with good cause shown, after applying the definition of fair market value contained in subdivision (1) of section 523.001, and after having viewed the property, shall return to the clerk of such court, under oath, their report in duplicate of such assessment of damages, setting forth the amount of damages allowed to the person or persons named as owning or claiming the tract of land condemned, and should more than one tract be condemned in the petition, then the damages allowed to the owner, owners, claimant or claimants of each tract, respectively, shall be stated

separately, together with a specific description of the tracts for which such damages are assessed; and the clerk shall file one copy of said report in his office and record the same in the order book of the court, and he shall deliver the other copy, duly certified by him, to the recorder of deeds of the county where the land lies (or to the recorder of deeds of the city of St. Louis, if the land lies in said city) who shall record the same in his office, and index each tract separately as provided in section 59.440, and the fee for so recording shall be taxed by the clerk as costs in the proceedings; and thereupon such company shall pay to the clerk the amount thus assessed for the party in whose favor such damages have been assessed; and on making such payment it shall be lawful for such company to hold the interest in the property so appropriated for the uses prescribed in this section; and upon failure to pay the assessment, the court may, upon motion and notice by the party entitled to such damages, enforce the payment of the same by execution, unless the said company shall, within ten days from the return of such assessment, elect to abandon the proposed appropriation of any parcel of land, by an instrument in writing to that effect, to be filed with the clerk of the court, and entered on the minutes of the court, and as to so much as is thus abandoned, the assessment of damages shall be void.

2. Prior to the issuance of any report under subsection 1 of this section, a commissioner shall notify all parties named in the condemnation petition no less than ten days prior to the commissioners' viewing of the property of the named parties' opportunity to accompany the commissioners on the commissioners' viewing of the property and of the named parties' opportunity to present information to the commissioners.

3. The commissioners shall view the property, hear arguments, and review other relevant information that may be offered by the parties.

544.455. RELEASE OF PERSON CHARGED, WHEN — CONDITIONS WHICH MAY BE IMPOSED. — 1. Any person charged with a bailable offense, at his **or her** appearance before an associate circuit judge or judge may be ordered released pending trial, appeal, or other stage of the proceedings against him on his personal recognizance, unless the associate circuit judge or judge determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required. When such a determination is made, the associate circuit judge or judge may either in lieu of or in addition to the above methods of release, impose any or any combination of the following conditions of release which will reasonably assure the appearance of the person for trial:

(1) Place the person in the custody of a designated person or organization agreeing to supervise him;

(2) Place restriction on the travel, association, or place of abode of the person during the period of release;

(3) Require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof;

(4) Require the person to report regularly to some officer of the court, or peace officer, in such manner as the associate circuit judge or judge directs;

(5) Require the execution of a bond in a given sum and the deposit in the registry of the court of ten percent, or such lesser percent as the judge directs, of the sum in cash or negotiable bonds of the United States or of the state of Missouri or any political subdivision thereof;

(6) **Place the person on house arrest with electronic monitoring, except that all costs associated with the electronic monitoring shall be charged to the person on house arrest. If the judge finds the person unable to afford the costs associated with electronic monitoring, then the judge shall not order that the person be placed on house arrest with electronic monitoring;**

(7) Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours.

2. In determining which conditions of release will reasonably assure appearance, the associate circuit judge or judge shall, on the basis of available information, take into account the

nature and circumstances of the offense charged, the weight of the evidence against the accused, the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and his record of appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings.

3. An associate circuit judge or judge authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any, shall inform such person of the penalties applicable to violations of the conditions of his release and shall advise him that a warrant for his arrest will be issued immediately upon any such violation.

4. A person for whom conditions of release are imposed and who after twenty-four hours from the time of the release hearing continues to be detained as a result of his inability to meet the conditions of release, shall, upon application, be entitled to have the condition reviewed by the associate circuit judge or judge who imposed them. The motion shall be determined promptly.

5. An associate circuit judge or judge ordering the release of a person on any condition specified in this section may at any time amend his order to impose additional or different conditions of release; except that, if the imposition of such additional or different conditions results in the detention of the person as a result of his inability to meet such conditions or in the release of the person on a condition requiring him to return to custody after specified hours, the provisions of subsection 4 shall apply.

6. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

7. Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security where such disposition is authorized by the court.

8. Persons charged with violations of municipal ordinances may be released by a municipal judge or other judge who hears and determines municipal ordinance violation cases of the municipality involved under the same conditions and in the same manner as provided in this section for release by an associate circuit judge.

9. A circuit court may adopt a local rule authorizing the pretrial release on electronic monitoring pursuant to subdivision (6) of subsection 1 of this section in lieu of incarceration of individuals charged with offenses specifically identified therein.

544.470. COMMITMENT OF INDIVIDUAL, WHEN — PRESUMPTION FOR ALIENS UNLAWFULLY PRESENT. — 1. If the offense is not bailable, **if the individual is not granted electronic monitoring,** or if the **[**person**] individual** does not meet the conditions for release, as provided in section 544.455, the **[**prisoner**] individual** shall be committed to the jail of the county in which the same is to be tried, there to remain until **[**he**] such individual** be discharged by due course of law.

2. There shall be a presumption that releasing the person under any conditions as provided by section 544.455 shall not reasonably assure the appearance of the person as required if the circuit judge or associate circuit judge reasonably believes that the person is an alien unlawfully present in the United States. If such presumption exists, the person shall be committed to the jail, as provided in subsection 1 of this section, until such person provides verification of his or her lawful presence in the United States to rebut such presumption. If the person adequately proves his or her lawful presence, the circuit judge or associate circuit judge shall review the issue of release, as provided under section 544.455, without regard to previous issues concerning whether the person is lawfully present in the United States. If the person cannot prove his or her lawful presence, the person shall continue to be committed to the jail and remain until discharged by due course of law.

557.011. AUTHORIZED DISPOSITIONS. — 1. Every person found guilty of an offense shall be dealt with by the court in accordance with the provisions of this chapter, except that for

offenses defined outside this code and not repealed, the term of imprisonment or the fine that may be imposed is that provided in the statute defining the offense; however, the conditional release term of any sentence of a term of years shall be determined as provided in subsection 4 of section 558.011.

2. Whenever any person has been found guilty of a felony or a misdemeanor the court shall make one or more of the following dispositions of the offender in any appropriate combination. The court may:

(1) Sentence the person to a term of imprisonment as authorized by chapter 558;

(2) Sentence the person to pay a fine as authorized by chapter 560;

(3) Suspend the imposition of sentence, with or without placing the person on probation;

(4) Pronounce sentence and suspend its execution, placing the person on probation;

(5) Impose a period of detention as a condition of probation, as authorized by section 559.026.

3. Whenever any person has been found guilty of an infraction, the court shall make one or more of the following dispositions of the offender in any appropriate combination. The court may:

(1) Sentence the person to pay a fine as authorized by chapter 560;

(2) Suspend the imposition of sentence, with or without placing the person on probation;

(3) Pronounce sentence and suspend its execution, placing the person on probation.

4. Whenever any organization has been found guilty of an offense, the court shall make one or more of the following dispositions of the organization in any appropriate combination. The court may:

(1) Sentence the organization to pay a fine as authorized by chapter 560;

(2) Suspend the imposition of sentence, with or without placing the organization on probation;

(3) Pronounce sentence and suspend its execution, placing the organization on probation;

(4) Impose any special sentence or sanction authorized by law.

5. This chapter shall not be construed to deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. An appropriate order exercising such authority may be included as part of any sentence.

6. In the event a sentence of confinement is ordered executed, a court may order that an individual serve all or any portion of such sentence on electronic monitoring, except that all costs associated with the electronic monitoring shall be charged to the person on house arrest. If the judge finds the person unable to afford the costs associated with electronic monitoring, then the judge shall not order that the person be placed on house arrest with electronic monitoring.

566.086. SEXUAL CONTACT WITH A STUDENT. — 1. A person commits the crime of sexual contact with a student **[**while on public school property**]** if he or she has sexual contact with a student of the public school **[**while on any public school property**]** and is:

(1) A teacher, as that term is defined in subdivisions (4), (5), and (7) of section 168.104;

(2) A student teacher;

(3) An employee of the school;

(4) A volunteer of the school or of an organization working with the school on a project or program **who is not a student at the public school**; **[**or**]**

(5) **An elected or appointed official of the public school district; or**

(6) A person employed by an entity that contracts with the public school district to provide services.

2. **[**For the purposes of this section, "public school property" shall mean property of any public school in this state serving kindergarten through grade twelve or any school bus used by the public school district.

3.**]** Sexual contact with a student **[**while on public school property**]** is a class D felony.

566.147. CERTAIN OFFENDERS NOT TO RESIDE WITHIN ONE THOUSAND FEET OF A SCHOOL OR CHILD-CARE FACILITY. — 1. Any person who, since July 1, 1979, has been or hereafter has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, incest; section 568.045, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, use of a child in a sexual performance; section 568.090, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section 573.035, promoting child pornography in the second degree; section 573.037, possession of child pornography, or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other state or foreign country, or under federal, tribal, or military jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not reside within one thousand feet of any public school as defined in section 160.011, **[**or**]** any private school giving instruction in a grade or grades not higher than the twelfth grade, **[**or**]** **any** child-care facility **[**as defined in section 210.201, which**]** **that is licensed under chapter 210, or any child-care facility as defined in section 210.201 that is exempt from state licensure but subject to state regulation under section 210.252 and holds itself out to be a child-care facility, where the school or facility** is in existence at the time the individual begins to reside at the location.

2. If such person has already established a residence and a public school, a private school, or child-care facility is subsequently built or placed within one thousand feet of such person's residence, then such person shall, within one week of the opening of such public school, private school, or child-care facility, notify the county sheriff where such public school, private school, or child-care facility is located that he or she is now residing within one thousand feet of such public school, private school, or child-care facility and shall provide verifiable proof to the sheriff that he or she resided there prior to the opening of such public school, private school, or child-care facility.

3. For purposes of this section, "resides" means sleeps in a residence, which may include more than one location and may be mobile or transitory.

4. Violation of the provisions of subsection 1 of this section is a class D felony except that the second or any subsequent violation is a class B felony. Violation of the provisions of subsection 2 of this section is a class A misdemeanor except that the second or subsequent violation is a class D felony.

568.040. CRIMINAL NONSUPPORT, PENALTY — PAYMENT OF SUPPORT AS A CONDITION OF PAROLE — PROSECUTING ATTORNEYS TO REPORT CASES TO FAMILY SUPPORT DIVISION. — 1. A person commits the crime of nonsupport if such person knowingly fails to provide**[**, without good cause,**]** adequate support for his or her spouse; a parent commits the crime of nonsupport if such parent knowingly fails to provide**[**, without good cause,**]** adequate support which such parent is legally obligated to provide for his or her child or stepchild who is not otherwise emancipated by operation of law.

2. For purposes of this section:

(1) "Child" means any biological or adoptive child, or any child whose paternity has been established under chapter 454, or chapter 210, or any child whose relationship to the defendant has been determined, by a court of law in a proceeding for dissolution or legal separation, to be that of child to parent;

(2) "Good cause" means any substantial reason why the defendant is unable to provide adequate support. Good cause does not exist if the defendant purposely maintains his inability to support;

(3) "Support" means food, clothing, lodging, and medical or surgical attention;

(4) It shall not constitute a failure to provide medical and surgical attention, if nonmedical remedial treatment recognized and permitted under the laws of this state is provided.

3. Inability to provide support for good cause shall be an affirmative defense under this section. A person who raises such affirmative defense has the burden of proving the defense by a preponderance of the evidence.

4. The defendant shall have the burden of injecting the issues raised by **[**subdivisions (2) and**] subdivision** (4) of subsection 2 **[**and subsection 3**]** of this section.

5. Criminal nonsupport is a class A misdemeanor, unless the total arrearage is in excess of an aggregate of twelve monthly payments due under any order of support issued by any court of competent jurisdiction or any authorized administrative agency, in which case it is a class D felony.

6. If at any time a defendant convicted of criminal nonsupport is placed on probation or parole, there may be ordered as a condition of probation or parole that the defendant commence payment of current support as well as satisfy the arrearages. Arrearages may be satisfied first by making such lump sum payment as the defendant is capable of paying, if any, as may be shown after examination of defendant's financial resources or assets, both real, personal, and mixed, and second by making periodic payments. Periodic payments toward satisfaction of arrears when added to current payments due may be in such aggregate sums as is not greater than fifty percent of the defendant's adjusted gross income after deduction of payroll taxes, medical insurance that also covers a dependent spouse or children, and any other court or administrative ordered support, only. If the defendant fails to pay the current support and arrearages as ordered, the court may revoke probation or parole and then impose an appropriate sentence within the range for the class of offense that the defendant was convicted of as provided by law, unless the defendant proves good cause for the failure to pay as required under subsection 3 of this section.

7. During any period that a nonviolent defendant is incarcerated for criminal nonsupport, if the defendant is ready, willing, and able to be gainfully employed during said period of incarceration, the defendant, if he or she meets the criteria established by the department of corrections, may be placed on work release to allow the defendant to satisfy defendant's obligation to pay support. Arrearages shall be satisfied as outlined in the collection agreement.

8. Beginning August 28, 2009, every nonviolent first- and second-time offender then incarcerated for criminal nonsupport, who has not been previously placed on probation or parole for conviction of criminal nonsupport, may be considered for parole, under the conditions set forth in subsection 6 of this section, or work release, under the conditions set forth in subsection 7 of this section.

9. Beginning January 1, 1991, every prosecuting attorney in any county which has entered into a cooperative agreement with the **[**division of**]** child support enforcement **service of the family support division of the department of social services** shall report to the division on a quarterly basis the number of charges filed and the number of convictions obtained under this section by the prosecuting attorney's office on all IV-D cases. The division shall consolidate the reported information into a statewide report by county and make the report available to the general public.

10. Persons accused of committing the offense of nonsupport of the child shall be prosecuted:

(1) In any county in which the child resided during the period of time for which the defendant is charged; or

(2) In any county in which the defendant resided during the period of time for which the defendant is charged.

570.080. RECEIVING STOLEN PROPERTY. — 1. A person commits the crime of receiving stolen property if for the purpose of depriving the owner of a lawful interest therein, he or she

receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

2. Evidence of the following is admissible in any criminal prosecution pursuant to this section to prove the requisite knowledge or belief of the alleged receiver:

(1) That he or she was found in possession or control of other property stolen on separate occasions from two or more persons;

(2) That he or she received other stolen property in another transaction within the year preceding the transaction charged;

(3) That he or she acquired the stolen property for a consideration which he or she knew was far below its reasonable value;

(4) That he or she obtained control over stolen property knowing the property to have been stolen or under such circumstances as would reasonably induce a person to believe the property was stolen.

3. **[**Receiving stolen property is a class A misdemeanor unless the property involved has a value of five hundred dollars or more, or the person receiving the property is a dealer in goods of the type in question, or the property involved is an explosive weapon as that term is defined in section 571.010, in which cases receiving stolen property is a class C felony**] Except as otherwise provided in subsections 4 and 5 of this section, receiving stolen property is a class A misdemeanor**.

4. Receiving stolen property is a class C felony if:

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

(2) The property has been physically taken from the person of the victim; or

(3) The property appropriated includes:

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

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

(c) Any credit card or letter of credit;

(d) Any firearm;

(e) Any explosive weapon as that term is defined in section 571.010;

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

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

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

(i) Any book of registration or list of voters required by chapter 115;

(j) Any animal considered livestock as that term is defined in section 144.010;

(k) Any live fish raised for commercial sale with a value of seventy-five dollars or more;

(l) Any captive wildlife held under permit issued by the conservation commission;

(m) Any controlled substance as that term is defined in section 195.010;

(n) Anhydrous ammonia;

(o) Ammonium nitrate; or

(p) Any document of historical significance which has a fair market value of five hundred dollars or more.

5. The receipt of any item of property or services pursuant to subsection 4 of this section which exceeds five hundred dollars may be considered a separate felony and may be charged in separate counts.

6. Any person who previously has been found guilty of, or pled guilty to, receiving stolen property, when the property is of the kind described under paragraph (j) or (l) of subdivision (3) of subsection 4 of this section and the value of the animal or animals received exceeds three thousand dollars, is guilty of a class B felony. Such person shall

serve a minimum prison term of not less than eighty percent of his or her sentence before being eligible for probation, parole, conditional release, or other early release by the department of corrections.

7. Receiving stolen property is a class B felony if the value of the property or services equals or exceeds twenty-five thousand dollars.

578.150. FAILURE TO RETURN RENTED PERSONAL PROPERTY — EVIDENCE OF INTENT TO VIOLATE, WHEN — LAW ENFORCEMENT PROCEDURE — PENALTY — VENUE — EXCEPTION. — 1. A person commits the crime of **[**failing to return**] stealing** leased or rented property if, with the intent to deprive the owner thereof, **[**he**] such person:**

(1) Purposefully fails to return leased or rented personal property to the place and within the time specified in an agreement in writing providing for the leasing or renting of such personal property**[**. In addition, any person who has leased or rented personal property of another who**]** **;**

(2) Conceals **or aids or abets the concealment of** the property from the owner**[**, or who otherwise**] ;**

(3) Sells, **encumbers, conveys,** pawns, loans, abandons or gives away the leased or rented property **[**is guilty of the crime of failing to return leased or rented property**] or any part thereof, without the written consent of the lessor, or without informing the person to whom the property is transferred to that the property is subject to a lease;**

(4) Returns the property to the lessor at the end of the lease term, plus any agreed upon extensions, but does not pay the lease charges agreed upon in the written instrument, with the intent to wrongfully deprive the lessor of the agreed upon charges.

2. The provisions of this section shall apply to all forms of leasing and rental agreements, including, but not limited to, contracts which provide the consumer options to buy the leased or rented personal property, lease-purchase agreements and rent-to-own contracts. For the purpose of determining if a violation of this section has occurred, leasing contracts which provide options to buy the merchandise are owned by the owner of the property until such time as the owner endorses the sale and transfer of ownership of the leased property to the lessee.

[2. It shall be prima facie evidence of the crime of failing to return leased or rented property when a person who has leased or rented personal property of another willfully fails to return or make arrangements acceptable with the lessor to return the personal property to its owner at the owner's place of business within ten days after proper notice following the expiration of the lease or rental agreement**] 3. Evidence that a lessee used a false, fictitious, or not current name, address, or place of employment in obtaining the property or that a lessee fails or refuses to return the property or pay the lease charges to the lessor within seven days after written demand for the return has been sent by certified mail, return receipt requested, to the address the person set forth in the lease agreement, or in the absence of the address, to the person's last known place of residence, shall be evidence of intent to violate the provisions of this section**, except that if **[**the**] a** motor vehicle has not been returned within seventy-two hours after the expiration of the lease or rental agreement, such failure to return the motor vehicle shall be prima facie evidence of the intent of the crime of **[**failing to return**] stealing** leased or rented property. Where the leased or rented property is a motor vehicle, if the motor vehicle has not been returned within seventy-two hours after the expiration of the lease or rental agreement, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle, and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles. Any law enforcement officer which stops such a motor vehicle may seize the motor vehicle and notify the lessor that he may recover such motor vehicle after it is photographed and its vehicle identification number is recorded for evidentiary purposes. Where the leased or rented property is not a motor vehicle, if such property has not been returned within the **[**ten-day**] seven-day** period prescribed in this subsection, the owner of the property shall report the failure to

return the property to the local law enforcement agency, and such law enforcement agency may within five days notify the person who leased or rented the property that such person is in violation of this section, and that failure to immediately return the property may subject such person to arrest for the violation.

[3.**]** **4.** This section shall not apply if such personal property is a vehicle and such return is made more difficult or expensive by a defect in such vehicle which renders such vehicle inoperable, if the lessee shall notify the lessor of the location of such vehicle and such defect before the expiration of the lease or rental agreement, or within ten days after proper notice.

[4. Proper notice by the lessor shall consist of a written demand addressed and mailed by certified or registered mail to the lessee at the address given at the time of making the lease or rental agreement. The notice shall contain a statement that the failure to return the property may subject the lessee to criminal prosecution.**]**

5. Any person who has leased or rented personal property of another who destroys such property so as to avoid returning it to the owner shall be guilty of property damage pursuant to section 569.100 or 569.120, in addition to being in violation of this section.

6. Venue shall lie in the county where the personal property was originally rented or leased.

7. **[**Failure to return**]** **Stealing** leased or rented property is a class A misdemeanor unless the property involved has a value of **[**five hundred**]** **one thousand** dollars or more, in which case **[**failing to return**]** **stealing** leased or rented property is a class C felony.

589.040. DUTIES OF DEPARTMENT OF CORRECTIONS — CERTAIN INMATES TO PARTICIPATE IN PROGRAMS. — 1. The director of the department of corrections shall develop a program of treatment, education and rehabilitation for all imprisoned offenders who are serving sentences for sexual assault offenses. When developing such programs, the ultimate goal shall be the prevention of future sexual assaults by the participants in such programs, and the director shall utilize those concepts, services, programs, projects, facilities and other resources designed to achieve this goal.

2. All persons imprisoned by the department of corrections for sexual assault offenses shall be required to successfully complete the programs developed pursuant to subsection 1 of this section **prior to being eligible for parole or conditional release**.

632.312. TRANSPORTATION COSTS, SHERIFF MAY BE REIMBURSED. — Notwithstanding the provisions of section 105.452 to the contrary, a sheriff may receive reimbursement for the actual costs of transporting a person to and from a mental health facility pursuant to chapter 632 from a public or private hospital, not-for-profit charitable organization, the state, or a political subdivision. Reimbursement from the state for actual costs, except for allowable mileage expenses, shall be subject to appropriations.

SECTION B. EMERGENCY CLAUSE. — Because of the need to adequately fund hospital districts in the state, the repeal and reenactment of section 144.032 and the enactment of section 205.205 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 144.032 and the enactment of section 205.205 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 8, 2011

HB 136 [HCS HB 136]

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 spouse of certain active military members to be eligible for unemployment benefits and to receive a temporary courtesy license to practice his or her occupation or profession in this state

AN ACT to repeal sections 288.050, 288.090, and 288.100, RSMo, and to enact in lieu thereof four new sections relating to benefits for military spouses.

SECTION

A. Enacting clause.
288.050. Benefits denied unemployed workers, when — pregnancy, requirements for benefit eligibility.
288.090. Contributions required, when — payments in lieu of contributions, procedures — common paymaster arrangements.
288.100. Experience rating — employer accounts, credits and charges.
324.008. Nonresident military spouse, temporary courtesy license to be issued upon transfer of active duty military spouse, when — rulemaking authority.

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

SECTION A. ENACTING CLAUSE. — Sections 288.050, 288.090, and 288.100, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 288.050, 288.090, 288.100, and 324.008, to read as follows:

288.050. BENEFITS DENIED UNEMPLOYED WORKERS, WHEN — PREGNANCY, REQUIREMENTS FOR BENEFIT ELIGIBILITY. — 1. Notwithstanding the other provisions of this law, a claimant shall be disqualified for waiting week credit or benefits until after the claimant has earned wages for work insured pursuant to the unemployment compensation laws of any state equal to ten times the claimant's weekly benefit amount if the deputy finds:

(1) That the claimant has left work voluntarily without good cause attributable to such work or to the claimant's employer. A temporary employee of a temporary help firm will be deemed to have voluntarily quit employment if the employee does not contact the temporary help firm for reassignment prior to filing for benefits. Failure to contact the temporary help firm will not be deemed a voluntary quit unless the claimant has been advised of the obligation to contact the firm upon completion of assignments and that unemployment benefits may be denied for failure to do so. The claimant shall not be disqualified:

(a) If the deputy finds the claimant quit such work for the purpose of accepting a more remunerative job which the claimant did accept and earn some wages therein;

(b) If the claimant quit temporary work to return to such claimant's regular employer; or

(c) If the deputy finds the individual quit work, which would have been determined not suitable in accordance with paragraphs (a) and (b) of subdivision (3) of this subsection, within twenty-eight calendar days of the first day worked;

(d) As to initial claims filed after December 31, 1988, if the claimant presents evidence supported by competent medical proof that she was forced to leave her work because of pregnancy, notified her employer of such necessity as soon as practical under the circumstances, and returned to that employer and offered her services to that employer as soon as she was physically able to return to work, as certified by a licensed and practicing physician, but in no event later than ninety days after the termination of the pregnancy. An employee shall have been employed for at least one year with the same employer before she may be provided benefits pursuant to the provisions of this paragraph;

(e) If the deputy finds that, due to the spouse's mandatory and permanent military change of station order, the claimant quit work to relocate with the spouse to a new residence from which it is impractical to commute to the place of employment and the claimant remained employed as long as was reasonable prior to the move. The claimant's spouse shall be a member of the U.S. Armed Forces who is on active duty, or a member of the national guard or other reserve component of the U.S. Armed Forces who is on active national guard or reserve duty. The provisions of this paragraph shall only apply to individuals who have been determined to be an insured worker as provided in subdivision (22) of subsection 1 of section 288.030;

(2) That the claimant has retired pursuant to the terms of a labor agreement between the claimant's employer and a union duly elected by the employees as their official representative or in accordance with an established policy of the claimant's employer; or

(3) That the claimant failed without good cause either to apply for available suitable work when so directed by a deputy of the division or designated staff of an employment office as defined in subsection **[**16**] 1** of section 288.030, or to accept suitable work when offered the claimant, either through the division or directly by an employer by whom the individual was formerly employed, or to return to the individual's customary self-employment, if any, when so directed by the deputy. An offer of work shall be rebuttably presumed if an employer notifies the claimant in writing of such offer by sending an acknowledgment via any form of certified mail issued by the United States Postal Service stating such offer to the claimant at the claimant's last known address. Nothing in this subdivision shall be construed to limit the means by which the deputy may establish that the claimant has or has not been sufficiently notified of available work.

(a) In determining whether or not any work is suitable for an individual, the division shall consider, among other factors and in addition to those enumerated in paragraph (b) of this subdivision, the degree of risk involved to the individual's health, safety and morals, the individual's physical fitness and prior training, the individual's experience and prior earnings, the individual's length of unemployment, the individual's prospects for securing work in the individual's customary occupation, the distance of available work from the individual's residence and the individual's prospect of obtaining local work; except that, if an individual has moved from the locality in which the individual actually resided when such individual was last employed to a place where there is less probability of the individual's employment at such individual's usual type of work and which is more distant from or otherwise less accessible to the community in which the individual was last employed, work offered by the individual's most recent employer if similar to that which such individual performed in such individual's last employment and at wages, hours, and working conditions which are substantially similar to those prevailing for similar work in such community, or any work which the individual is capable of performing at the wages prevailing for such work in the locality to which the individual has moved, if not hazardous to such individual's health, safety or morals, shall be deemed suitable for the individual;

(b) Notwithstanding any other provisions of this law, no work shall be deemed suitable and benefits shall not be denied pursuant to this law to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

a. If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

b. If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

c. If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

2. If a deputy finds that a claimant has been discharged for misconduct connected with the claimant's work, such claimant shall be disqualified for waiting week credit and benefits, and no benefits shall be paid nor shall the cost of any benefits be charged against any employer for any period of employment within the base period until the claimant has earned wages for work

insured under the unemployment laws of this state or any other state as prescribed in this section. In addition to the disqualification for benefits pursuant to this provision the division may in the more aggravated cases of misconduct, cancel all or any part of the individual's wage credits, which were established through the individual's employment by the employer who discharged such individual, according to the seriousness of the misconduct. A disqualification provided for pursuant to this subsection shall not apply to any week which occurs after the claimant has earned wages for work insured pursuant to the unemployment compensation laws of any state in an amount equal to six times the claimant's weekly benefit amount. Should a claimant be disqualified on a second or subsequent occasion within the base period or subsequent to the base period the claimant shall be required to earn wages in an amount equal to or in excess of six times the claimant's weekly benefit amount for each disqualification.

3. Absenteeism or tardiness may constitute a rebuttable presumption of misconduct, regardless of whether the last incident alone constitutes misconduct, if the discharge was the result of a violation of the employer's attendance policy, provided the employee had received knowledge of such policy prior to the occurrence of any absence or tardy upon which the discharge is based.

4. Notwithstanding the provisions of subsection 1 of this section, a claimant may not be determined to be disqualified for benefits because the claimant is in training approved pursuant to Section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended), or because the claimant left work which was not suitable employment to enter such training. For the purposes of this subsection "suitable employment" means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than eighty percent of the worker's average weekly wage as determined for the purposes of the Trade Act of 1974.

288.090. CONTRIBUTIONS REQUIRED, WHEN — PAYMENTS IN LIEU OF CONTRIBUTIONS, PROCEDURES — COMMON PAYMASTER ARRANGEMENTS. — 1. Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this law. Such contributions shall become due and be paid by each employer to the division for the fund on or before the last day of the month following each calendar quarterly period of three months except when regulation requires monthly payment. Any employer upon application, or pursuant to a general or special regulation, may be granted an extension of time, not exceeding three months, for the making of his or her quarterly contribution and wage reports or for the payment of such contributions. Payment of contributions due shall be made to the treasurer designated pursuant to section 288.290.

(1) In the payment of any contributions due, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent;

(2) Contributions shall not be deducted in whole or in part from the wages of individuals in employment.

2. As of June thirtieth of each year, the division shall establish an average industry contribution rate for the next succeeding calendar year for each of the industrial classification divisions listed in the industrial classification system established by the federal government. The average industry contribution rate for each standard industrial classification division shall be computed by multiplying total taxable wages paid by each employer in the industrial classification division during the twelve consecutive months ending on June thirtieth by the employer's contribution rate established for the next calendar year and dividing the aggregate product for all employers in the industrial classification division by the total of taxable wages paid by all employers in the industrial classification division during the twelve consecutive months ending on June thirtieth. Each employer will be assigned to an industrial classification code division as determined by the division in accordance with the definitions contained in the industrial classification system established by the federal government, and shall pay contributions at the average industry rate established for the preceding calendar year for the industrial

classification division to which it is assigned or two and seven-tenths percent of taxable wages paid by it, whichever is the greater, unless there have been at least twelve consecutive calendar months immediately preceding the calculation date throughout which its account could have been charged with benefits. The division shall classify all employers meeting this chargeability requirement for each calendar year in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts, with a view to fixing such contribution rates as will reflect such experience. The division shall determine the contribution rate of each such employer in accordance with sections 288.113 to 288.126. Notwithstanding the provisions of this subsection, any employing unit which becomes an employer pursuant to the provisions of subsection 7 or 8 of section 288.034 shall pay contributions equal to one percent of wages paid by it until its account has been chargeable with benefits for the period of time sufficient to enable it to qualify for a computed rate on the same basis as other employers.

3. Benefits paid to employees of any governmental entity and nonprofit organizations shall be financed in accordance with the provisions of this subsection. For the purpose of this subsection, a "nonprofit organization" is an organization (or group of organizations) described in Section 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under Section 501(a) of such code.

(1) A governmental entity which, pursuant to subsection 7 of section 288.034, or nonprofit organization which, pursuant to subsection 8 of section 288.034, is, or becomes, subject to this law on or after April 27, 1972, shall pay contributions due under the provisions of subsections 1 and 2 of this section unless it elects, in accordance with this subdivision, to pay to the division for the unemployment compensation fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such governmental entity or nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election; except that, with respect to benefits paid for weeks of unemployment beginning on or after January 1, 1979, any such election by a governmental entity shall be to pay to the division for the unemployment compensation fund an amount equal to the amount of all regular benefits and all extended benefits paid that is attributable to service in the employ of such governmental entity.

(a) A governmental entity or nonprofit organization which is, or becomes, subject to this law on or after April 27, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than one calendar year, provided it files with the division a written notice of its election within the thirty-day period immediately following the date of the determination of such subjectivity. The provisions of paragraphs (a) through **[**(e)**] (f)** of subdivision (4) of subsection 1 of section 288.100 shall not apply in the calendar year 1998 and each calendar year thereafter, in the case of an employer who has elected to become liable for payments in lieu of contributions.

(b) A governmental entity or nonprofit organization which makes an election in accordance with paragraph (a) of this subdivision will continue to be liable for payments in lieu of contributions until it files with the division a written notice terminating its election not later than thirty days prior to the beginning of the calendar year for which such termination shall first be effective.

(c) A governmental entity or any nonprofit organization which has been paying contributions under this law for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing with the division not later than thirty days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next calendar year.

(d) The division, in accordance with such regulations as may be adopted, shall notify each governmental entity or nonprofit organization of any determination of its status of an employer

and of the effective date of any election which it makes and of any termination of such election. Such determination shall be subject to appeal as is provided in subsection 4 of section 288.130.

(2) Payments in lieu of contributions shall be made in accordance with the provisions of paragraph (a) of this subdivision, as follows:

(a) At the end of each calendar quarter, or at the end of any other period as determined by the director, the division shall bill the governmental entity or nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such organization; except that, with respect to extended benefits paid for weeks of unemployment beginning on or after January 1, 1979, which are attributable to service in the employ of a governmental entity, the governmental entity shall be billed for the full amount of such extended benefits.

(b) Payment of any bill rendered under paragraph (a) of this subdivision shall be due and shall be made not later than thirty days after such bill was mailed to the last known address of the governmental entity or nonprofit organization or was otherwise delivered to it.

(c) Payments made by the governmental entity or nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(d) Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that apply to past due contributions. Also, unpaid amounts in lieu of contributions, interest, penalties and surcharges are subject to the same assessment, civil action and compromise provisions of this law as apply to unpaid contributions. Further, the provisions of this law which provide for the adjustment or refund of contributions shall apply to the adjustment or refund of payments in lieu of contributions.

(3) If any governmental entity or nonprofit organization fails to timely file a required quarterly wage report, the division shall assess such entity or organization a penalty as provided in subsections 1 and 2 of section 288.160.

(4) Except as provided in subsection 4 of this section, each employer that is liable for payments in lieu of contributions shall pay to the division for the fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer; except that, with respect to benefits paid for weeks of unemployment beginning on or after January 1, 1979, a governmental entity that is liable for payments in lieu of contributions shall pay to the division for the fund the amount of all regular benefits and all extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer in the base period of the claim, the amount chargeable to each employer shall be obtained by multiplying the benefits paid by a ratio obtained by dividing the base period wages from such employer by the total wages appearing in the base period.

(5) Two or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of subdivision (1) of this subsection, may file a joint application to the division for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subdivision. Upon approval of the application, the division shall establish a group account for such employers effective as of the beginning of the calendar quarter in which the application was received and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the director or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of

the group as the total wages paid for service in employment by such member in such quarter bears to the total wages paid during such quarter for service performed in the employ of all members of the group. The director shall prescribe such regulations as he or she deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subdivision, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subdivision by members of the group and the time and manner of such payments.

4. Any employer which elects to make payments in lieu of contributions into the unemployment compensation fund as provided in subdivision (1) of subsection 3 of this section shall not be liable to make such payments with respect to the benefits paid to any individual whose base period wages include wages for previous work not classified as insured work as defined in section 288.030 to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to Section 121 of Public Law 94-566.

5. Beginning January 1, 1998, and each calendar year thereafter, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for all benefit payments and shall not have charges relieved pursuant to the provisions of paragraphs (a) through **[**(e)**] (f)** of subdivision (4) of subsection 1 of section 288.100.

6. (1) For the purposes of this chapter, a common paymaster arrangement will not exist unless approval has been obtained from the division. To receive a division-approved common paymaster arrangement, the related corporation designated to be the common paymaster for the related corporations must notify the division in writing at least thirty days prior to the beginning of the quarter in which the common paymaster reporting is to be effective. The common paymaster shall furnish the name and account number of each corporation in the related group that will be utilizing the one corporation as the common paymaster. The common paymaster shall also notify the division at least thirty days prior to any change in the related group of corporations or termination of the common paymaster arrangement. The common paymaster shall be responsible for keeping books and records for the payroll with respect to its own employees and the concurrently employed individuals of the related corporations. In order for remuneration to be eligible for the provisions applicable to a common paymaster, the individuals must be concurrently employed and the remuneration must be disbursed through the common paymaster. The common paymaster shall have the primary responsibility for remitting all required quarterly contribution and wage reports, contributions due with respect to the remuneration it disburses as the common paymaster and/or payments in lieu of contributions. The common paymaster shall compute the contributions due as though it were the sole employer of the concurrently employed individuals. If the common paymaster fails to remit the quarterly contribution and wage reports, contributions due and/or payments in lieu of contributions, in whole or in part, it shall remain liable for submitting the quarterly contribution and wage reports and the full amount of the unpaid portion of the contributions due and/or payments in lieu of contributions. In addition, each of the related corporations using the common paymaster shall be jointly and severally liable for submitting quarterly contribution and wage reports, its share of the contributions due and/or payments in lieu of contributions, penalties, interest and surcharges which are not submitted and/or paid by the common paymaster. All contributions due, payments in lieu of contributions, penalties, interest and surcharges which are not timely paid to the division under a common paymaster arrangement shall be subject to the collection provisions of this chapter.

(2) For the purposes of this subsection, "concurrent employment" means the simultaneous existence of an employment relationship between an individual and two or more related corporations for any calendar quarter in which employees are compensated through a common paymaster which is one of the related corporations, those corporations shall be considered one employing unit and be subject to the provisions of this chapter.

(3) For the purposes of this subsection, "related corporations" means that corporations shall be considered related corporations for an entire calendar quarter if they satisfy any one of the following tests at any time during the calendar quarter:

(a) The corporations are members of a "controlled group of corporations". The term "controlled group of corporations" means:

a. Two or more corporations connected through stock ownership with a common parent corporation, if the parent corporation owns stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote or at least fifty percent of the total value of shares of all classes of stock of each of the other corporations; or

b. Two or more corporations, if five or less persons who are individuals, estates or trusts own stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote or at least fifty percent of the total value of shares of all classes of stock of each of the other corporations; or

(b) In the case of corporations which do not issue stock, at least fifty percent of the members of one corporation's board of directors are members of the board of directors of the other corporations; or

(c) At least fifty percent of one corporation's officers are concurrently officers of the other corporations; or

(d) At least thirty percent of one corporation's employees are concurrently employees of the other corporations.

288.100. EXPERIENCE RATING — EMPLOYER ACCOUNTS, CREDITS AND CHARGES. — 1. (1) The division shall maintain a separate account for each employer which is paying contributions, and shall credit each employer's account with all contributions which each employer has paid. A separate account shall be maintained for each employer making payments in lieu of contributions to which shall be credited all such payments made. The account shall also show payments due as provided in section 288.090. The division may close and cancel such separate account after a period of four consecutive calendar years during which such employer has had no employment in this state subject to contributions. Nothing in this law shall be construed to grant any employer or individuals in the employer's service prior claims or rights to the amounts paid by the employer into the fund either on the employer's own behalf or on behalf of such individuals. Except as provided in subdivision (4) of this subsection, regular benefits and that portion of extended benefits not reimbursed by the federal government paid to an eligible individual shall be charged against the accounts of the individual's base period employers who are paying contributions subject to the provisions of subdivision (4) of subsection 3 of section 288.090. With respect to initial claims filed after December 31, 1984, for benefits paid to an individual based on wages paid by one or more employers in the base period of the claim, the amount chargeable to each employer shall be obtained by multiplying the benefits paid by a ratio obtained by dividing the base period wages from such employer by the total wages appearing in the base period. Except as provided in **[**paragraph (a) of**]** this subdivision, the maximum amount of extended benefits paid to an individual and charged against the account of any employer shall not exceed one-half of the product obtained by multiplying the benefits paid by a ratio obtained by dividing the base period wages from such employer by the total wages appearing in the base period.

[(a)**]** The provisions of subdivision (1) of this subsection notwithstanding, with respect to weeks of unemployment beginning after December 31, 1978, the maximum amount of extended benefits paid to an individual and charged against the account of an employer which is an employer pursuant to subdivision (3) of subsection 1 of section 288.032 and which is paying contributions pursuant to subsections 1 and 2 of section 288.090 shall not exceed the calculated entitlement for the extended benefit claim based upon the wages appearing within the base period of the extended benefit claim.

(2) Beginning as of June 30, 1951, and as of June thirtieth of each year thereafter, any unassigned surplus in the unemployment compensation fund which is five hundred thousand dollars or more in excess of five-tenths of one percent of the total taxable wages paid by all employers for the preceding calendar year as shown on the division's records on such June thirtieth shall be credited on a pro rata basis to all employer accounts having a credit balance in the same ratio that the balance in each such account bears to the total of the credit balances subject to use for rate calculation purposes for the following year in all such accounts on the same date. As used in this subdivision, the term "unassigned surplus" means the amount by which the total cash balance in the unemployment compensation fund exceeds a sum equal to the total of all employer credit account balances. The amount thus prorated to each separate employer's account shall for tax rating purposes be considered the same as contributions paid by the employer and credited to the employer's account for the period preceding the calculation date except that no such amount can be credited against any contributions due or that may thereafter become due from such employer.

(3) At the conclusion of each calendar quarter the division shall, within thirty days, notify each employer by mail of the benefits paid to each claimant by week as determined by the division which have been charged to such employer's account subsequent to the last notice.

(4) (a) No benefits based on wages paid for services performed prior to the date of any act for which a claimant is disqualified pursuant to section 288.050 shall be chargeable to any employer directly involved in such disqualifying act.

(b) In the event the deputy has in due course determined pursuant to paragraph (a) of subdivision (1) of subsection 1 of section 288.050 that a claimant quit his or her work with an employer for the purpose of accepting a more remunerative job with another employer which the claimant did accept and earn some wages therein, no benefits based on wages paid prior to the date of the quit shall be chargeable to the employer the claimant quit.

(c) In the event the deputy has in due course determined pursuant to paragraph (b) of subdivision (1) of subsection 1 of section 288.050 that a claimant quit temporary work in employment with an employer to return to the claimant's regular employer, then, only for the purpose of charging base period employers, all of the wages paid by the employer who furnished the temporary employment shall be combined with the wages actually paid by the regular employer as if all such wages had been actually paid by the regular employer. Further, charges for benefits based on wages paid for part-time work shall be removed from the account of the employer furnishing such part-time work if that employer continued to employ the individual claiming such benefits on a regular recurring basis each week of the claimant's claim to at least the same extent that the employer had previously employed the claimant and so informs the division within thirty days from the date of notice of benefit charges.

(d) No charge shall be made against an employer's account in respect to benefits paid an individual if the gross amount of wages paid by such employer to such individual is four hundred dollars or less during the individual's base period on which the individual's benefit payments are based. Further, no charge shall be made against any employer's account in respect to benefits paid any individual unless such individual was in employment with respect to such employer longer than a probationary period of twenty-eight days, if such probationary period of employment has been reported to the division as required by regulation.

(e) In the event the deputy has in due course determined pursuant to paragraph (c) of subdivision (1) of subsection 1 of section 288.050 that a claimant is not disqualified, no benefits based on wages paid for work prior to the date of the quit shall be chargeable to the employer the claimant quit.

(f) **In the event the deputy has in due course determined under paragraph (e) of subdivision (1) of subsection 1 of section 288.050 that a claimant is not disqualified, no benefits based on wages paid for work prior to the date of the quit shall be chargeable to the employer the claimant quit.**

(g) Nothing in paragraph (b), (c), (d) **[**or**] ,** (e)**, or (f)** of this subdivision shall in any way affect the benefit amount, duration of benefits or the wage credits of the claimant.

2. The division may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

3. The division may by regulation provide for the compilation and publication of such data as may be necessary to show the amounts of benefits not charged to any individual employer's account classified by reason no such charge was made and to show the types and amounts of transactions affecting the unemployment compensation fund.

324.008. NONRESIDENT MILITARY SPOUSE, TEMPORARY COURTESY LICENSE TO BE ISSUED UPON TRANSFER OF ACTIVE DUTY MILITARY SPOUSE, WHEN — RULEMAKING AUTHORITY. — 1. As used in this section, "nonresident military spouse" means a nonresident spouse of an active duty member of the armed forces of the United States who has been transferred or is scheduled to be transferred to the state of Missouri, is domiciled in the state of Missouri, or has moved to the state of Missouri on a permanent change-of-station basis.

2. Except as provided in subsection 6 of this section and notwithstanding any other provision of law, any agency of this state or board established under state law for the regulation of occupations and professions in this state shall, with respect to such occupation or profession that it regulates, by rule establish criteria for the issuance of a temporary courtesy license to a nonresident spouse of an active duty member of the military who is transferred to this state in the course of the member's military duty, so that, on a temporary basis, the nonresident military spouse may lawfully practice his or her occupation or profession in this state.

3. Notwithstanding provisions to the contrary, a nonresident military spouse shall receive a temporary courtesy license under subsection 2 of this section if, at the time of application, the nonresident military spouse:

(1) Holds a current license or certificate in another state, district, or territory of the United States with licensure requirements that the appropriate regulatory board or agency determines are equivalent to those established under Missouri law for that occupation or profession;

(2) Was engaged in the active practice of the occupation or profession for which the nonresident military spouse seeks a temporary license or certificate in a state, district, or territory of the United States for at least two of the five years immediately preceding the date of application under this section;

(3) Has not committed an act in any jurisdiction that would have constituted grounds for the refusal, suspension, or revocation of a license or certificate to practice that occupation or profession under Missouri law at the time the act was committed;

(4) Has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing or credentialing entity in another jurisdiction;

(5) Authorizes the appropriate board or agency to conduct a criminal background check and pay for any costs associated with such background check;

(6) Pays any fees required by the appropriate board or agency for that occupation or profession; and

(7) Complies with other requirements as provided by the board.

4. Relevant full-time experience in the discharge of official duties in the military service or an agency of the federal government shall be credited in the counting of years of practice under subdivision (2) of subsection 3 of this section.

5. A temporary courtesy license or certificate issued under this section is valid for one hundred eighty days and may be extended at the discretion of the applicable regulatory board or agency for another one hundred eighty days on application of the holder of the temporary courtesy license or certificate.

6. This section shall not apply to the practice of law or the regulation of attorneys.

7. The appropriate board or agency 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, 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 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, 2011, shall be invalid and void.

Approved July 14, 2011

HB 137 [SS SCS HB 137]

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.

Repeals the authority of certain state university boards to convey or transfer property without authorization from the General Assembly and authorizes the Governor to convey certain state properties

AN ACT to repeal section 37.005, RSMo, and to enact in lieu thereof twenty-five new sections relating to the transfer of property, with an emergency clause.

SECTION

A. Enacting clause.
37.005. Powers and duties, generally.
1. Conveyance of Algoa Correctional Center property in Jefferson City.
2. Conveyance of Boonville Correctional Center property in Boonville.
3. Conveyance of Western Reception and Diagnostic Correctional Center property in St. Joseph.
4. Conveyance of Central Missouri Correctional Center property in Jefferson City.
5. Conveyance of Farmington Correctional Center property in Farmington.
6. Conveyance of state property located in Farmington.
7. Conveyance of Fulton Reception and Diagnostic Correctional Center property in Fulton.
8. Conveyance of Maryville Treatment Center property in Maryville.
9. Conveyance of Eastern Reception Diagnostic Correction Center property in Bonne Terre.
10. Conveyance of Missouri Eastern Correctional Center property in Pacific.
11. Conveyance of South Central Correctional Center property in Licking.
12. Conveyance of Potosi Correctional Center property in Potosi.
13. Conveyance of Chillicothe Correctional Center property in Chillicothe.
14. Conveyance of Tipton Correctional Center property in Tipton.
15. Conveyance of Women's Eastern Reception and Diagnostic Center property in Vandalia.
16. Conveyance of Moberly Correctional Center property in Moberly.
17. Conveyance of St. Francois County Correctional Facility property in Farmington to St. Francois County.
18. Conveyance of Adrians Island property in Cole County to Jefferson City.
19. Permanent levee easement on Church Farm property in Cole County to be conveyed to the Cole Junction Levee District.
20. Permanent pipeline easement on Moberly Correctional Center property in Randolph County to be conveyed to the Panhandle Eastern Pipeline Company.

21. Conveyance of South East Missouri Mental Health Center property in Farmington to the Missouri Highway and Transportation Commission.
22. Corrected conveyance language for a 2009 conveyance authorization for South East Missouri Mental Health Center property in Farmington.
23. Conveyance of National Guard property in Centertown.
24. Permanent drainage easement on certain state property in Joplin.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 37.005, RSMo, is repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 37.005, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24, to read as follows:

37.005. POWERS AND DUTIES, GENERALLY. — 1. Except as provided herein, the office of administration shall be continued as set forth in house bill 384, seventy-sixth general assembly and shall be considered as a department within the meaning used in the Omnibus State Reorganization Act of 1974. The commissioner of administration shall appoint directors of all major divisions within the office of administration.

2. The commissioner of administration shall be a member of the governmental emergency fund committee as ex officio comptroller and the director of the department of revenue shall be a member in place of the chief of the planning and construction division.

3. The office of administration is designated the "Missouri State Agency for Surplus Property" as required by Public Law 152, eighty-first Congress as amended, and related laws for disposal of surplus federal property. All the powers, duties and functions vested by sections 37.075 and 37.080, and others, are transferred by type I transfer to the office of administration as well as all property and personnel related to the duties. The commissioner shall integrate the program of disposal of federal surplus property with the processes of disposal of state surplus property to provide economical and improved service to state and local agencies of government. The governor shall fix the amount of bond required by section 37.080. All employees transferred shall be covered by the provisions of chapter 36 and the Omnibus State Reorganization Act of 1974.

4. The commissioner of administration shall replace the director of revenue as a member of the board of fund commissioners and assume all duties and responsibilities assigned to the director of revenue by sections 33.300 to 33.540 relating to duties as a member of the board and matters relating to bonds and bond coupons.

5. All the powers, duties and functions of the administrative services section, section 33.580 and others, are transferred by a type I transfer to the office of administration and the administrative services section is abolished.

6. The commissioner of administration shall, in addition to his or her other duties, cause to be prepared a comprehensive plan of the state's field operations, buildings owned or rented and the communications systems of state agencies. Such a plan shall place priority on improved availability of services throughout the state, consolidation of space occupancy and economy in operations.

7. The commissioner of administration shall from time to time examine the space needs of the agencies of state government and space available and shall, with the approval of the board of public buildings, assign and reassign space in property owned, leased or otherwise controlled by the state. Any other law to the contrary notwithstanding, upon a determination by the commissioner that all or part of any property is in excess of the needs of any state agency, the commissioner may lease such property to a private or government entity. Any revenue received from the lease of such property shall be deposited into the fund or funds from which moneys for rent, operations or purchase have been appropriated. The commissioner shall establish by rule the procedures for leasing excess property.

8. The commissioner of administration is hereby authorized to coordinate and control the acquisition and use of electronic data processing (EDP) and automatic data processing (ADP) in the executive branch of state government. For this purpose, the office of administration will have authority to:

(1) Develop and implement a long-range computer facilities plan for the use of EDP and ADP in Missouri state government. Such plan may cover, but is not limited to, operational standards, standards for the establishment, function and management of service centers, coordination of the data processing education, and planning standards for application development and implementation;

(2) Approve all additions and deletions of EDP and ADP hardware, software, and support services, and service centers;

(3) Establish standards for the development of annual data processing application plans for each of the service centers. These standards shall include review of post-implementation audits. These annual plans shall be on file in the office of administration and shall be the basis for equipment approval requests;

(4) Review of all state EDP and ADP applications to assure conformance with the state information systems plan, and the information systems plans of state agencies and service centers;

(5) Establish procurement procedures for EDP and ADP hardware, software, and support service;

(6) Establish a charging system to be used by all service centers when performing work for any agency;

(7) Establish procedures for the receipt of service center charges and payments for operation of the service centers. The commissioner shall maintain a complete inventory of all state-owned or -leased EDP and ADP equipment, and annually submit a report to the general assembly which shall include starting and ending EDP and ADP costs for the fiscal year previously ended, and the reasons for major increases or variances between starting and ending costs. The commissioner shall also adopt, after public hearing, rules and regulations designed to protect the rights of privacy of the citizens of this state and the confidentiality of information contained in computer tapes or other storage devices to the maximum extent possible consistent with the efficient operation of the office of administration and contracting state agencies.

9. Except as provided in subsection 12 of this section, the fee title to all real property now owned or hereafter acquired by the state of Missouri, or any department, division, commission, board or agency of state government, other than real property owned or possessed by the state highways and transportation commission, conservation commission, state department of natural resources, and the University of Missouri, shall on May 2, 1974, vest in the governor. The governor may not convey or otherwise transfer the title to such real property, unless such conveyance or transfer is first authorized by an act of the general assembly. The provisions of this subsection requiring authorization of a conveyance or transfer by an act of the general assembly shall not, however, apply to the granting or conveyance of an easement to any rural electric cooperative as defined in chapter 394, municipal corporation, quasi-governmental corporation owning or operating a public utility, or a public utility, except railroads, as defined in chapter 386. The governor, with the approval of the board of public buildings, may, upon the request of any state department, agency, board or commission not otherwise being empowered to make its own transfer or conveyance of any land belonging to the state of Missouri which is under the control and custody of such department, agency, board or commission, grant or convey without further legislative action, for such consideration as may be agreed upon, easements across, over, upon or under any such state land to any rural electric cooperative, as governed in chapter 394, municipal corporation, or quasi-governmental corporation owning or operating a public utility, or a public utility, except railroad, as defined in chapter 386. The easement shall be for the purpose of promoting the general health, welfare and safety of the public and shall include the right of ingress or egress for the purpose of constructing, maintaining or removing

any pipeline, power line, sewer or other similar public utility installation or any equipment or appurtenances necessary to the operation thereof, except that railroad as defined in chapter 386 shall not be included in the provisions of this subsection unless such conveyance or transfer is first authorized by an act of the general assembly. The easement shall be for such consideration as may be agreed upon by the parties and approved by the board of public buildings. The attorney general shall approve the form of the instrument of conveyance. The commissioner of administration shall prepare management plans for such properties in the manner set out in subsection 7 of this section.

10. The commissioner of administration shall administer a revolving "Administrative Trust Fund" which shall be established by the state treasurer which shall be funded annually by appropriation and which shall contain moneys transferred or paid to the office of administration in return for goods and services provided by the office of administration to any governmental entity or to the public. The state treasurer shall be the custodian of the fund, and shall approve disbursements from the fund for the purchase of goods or services at the request of the commissioner of administration or the commissioner's designee. The provisions of section 33.080 notwithstanding, moneys in the fund shall not lapse, unless and then only to the extent to which the unencumbered balance at the close of any fiscal year exceeds one-eighth of the total amount appropriated, paid, or transferred to the fund during such fiscal year, and upon approval of the oversight division of the joint committee on legislative research. The commissioner shall prepare an annual report of all receipts and expenditures from the fund.

11. All the powers, duties and functions of the department of community affairs relating to statewide planning are transferred by type I transfer to the office of administration.

12. The titles which are vested in the governor by or pursuant to this section to real property assigned to any of the educational institutions referred to in section 174.020 on June 15, 1983, are hereby transferred to and vested in the board of regents of the respective educational institutions, and the titles to real property and other interests therein hereafter acquired by or for the use of any such educational institution, notwithstanding provisions of this section, shall vest in the board of regents of the educational institution. The board of regents may not convey or otherwise transfer the title to or other interest in such real property unless the conveyance or transfer is first authorized by an act of the general assembly, except as provided in section 174.042, and except that the board of regents may grant easements over, in and under such real property without further legislative action.

13. Notwithstanding any provision of subsection 12 of this section to the contrary, the board of governors of Missouri Western State University**[**, Central Missouri State University, Missouri State University, or Missouri Southern State University; or the board of regents of Southeast Missouri State University, Northwest Missouri State University, or Harris-Stowe State University; or the board of curators of Lincoln University**]** may convey or otherwise transfer **for fair market value**, except in fee simple, the title to or other interest in such real property without authorization by an act of the general assembly. The provisions of this subsection shall expire August 28, **[**2011**] 2014**.

14. All county sports complex authorities, and any sports complex authority located in a city not within a county, in existence on August 13, 1986, and organized under the provisions of sections 64.920 to 64.950, are assigned to the office of administration, but such authorities shall not be subject to the provisions of subdivision (4) of subsection 6 of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo, as amended.

15. All powers, duties, and functions vested in the administrative hearing commission, sections 621.015 to 621.205 and others, are transferred to the office of administration by a type III transfer.

SECTION 1. CONVEYANCE OF ALGOA CORRECTIONAL CENTER PROPERTY IN JEFFERSON 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 property located at the Algoa Correctional Center in Jefferson City, Cole County, Missouri, described as follows:

TRACT A

Part of U.S. PRIVATE SURVEY NO. 2611, Township 44 North, Range 10 West, Cole County, Missouri, more particularly described as follows:

From the northwest corner of the Northeast Fractional Quarter of Section 20, Township 44 North, Range 10 West; thence S86°50'10"E, along the Section Line, 1045.00 feet to the southeast corner of Lot No. 5 of the Plat of Ewing Farm, a subdivision of record in Plat Book 1, page 69, Cole County Recorder's Office and said corner being the POINT OF BEGINNING for this description; thence N0°16'00"E, along the east line of said Lot No. 5, 1758.90 feet to a point on the south bank of the Missouri River, said point being the northwest corner of U.S. Private Survey No. 2611; thence Easterly, along the north line of said U.S. Private Survey No. 2611, and the south bank of the Missouri River, the following courses: N73°08'46"E, 503.97 feet; thence N83°20'48"E, 1039.99 feet to the northwest corner of the original Section 16, Township 44 North, Range 10 West; thence leaving the north line of said U.S. Private Survey No. 2611 and the south bank of the Missouri River, S1°02'02"W, along the original line between Sections 16 and 17, 683.12 feet to the northwest corner of the Southwest Quarter of the Southwest Quarter of said original Section 16 and said corner being the southwesterly corner of a tract described by deed of record in Book 277, page 458, Cole County Recorder's Office; thence Easterly along the southerly boundary of said tract described in Book 277, page 458, the following courses: S88°39'30"E, along the Quarter, Quarter Section Line, 108.50 feet; thence S51°39'48"E, 419.63 feet; thence S79°38'25"E, 186.02 feet to the most northerly corner of a tract described by deed of record in Book 409, page 749, Cole County Recorder's Office; thence leaving the southerly boundary of said tract described in Book 277, page 458, S18°17'34"W, along the westerly line of said tract described in Book 409, page 749, 136.06 feet to the southwesterly corner thereof; thence S84°00'29"E, along the southerly line of said tract described in Book 409, page 749, 144.32 feet to the most easterly corner thereof and said corner being the southeasterly corner of a tract described by deed of record in Book 406, page 897, Cole County Recorder's Office; thence N22°35'50"E, along the easterly line of said tract described in Book 406, page 897, 126.65 feet to the northeasterly corner thereof and said corner being a point on the southerly boundary of the aforesaid tract described by deed of record in Book 277, page 458; thence S79°38'25"E, along the southerly boundary of said tract described in Book 277, page 458, 40.46 feet; thence S74°16'57"E, along the southerly boundary of said tract described in Book 277, page 458, 268.96 feet to a point on the west line of a 50 foot wide street right-of-way known as Elm Street, as per plat of Ewings Addition to the Town of Osage City; thence S2°41'10"W, along the west line of said Elm Street right-of-way, 984.82 feet to a point on the north line of the original Section 21, Township 44 North, Range 10 West; thence N88°38'32"W, along the original Section Line, 17.96 feet to a point on the west line of the 60 foot wide street right-of-way known as Elm Street, as per plat of McCurnan's Addition to the Town of Osage City; thence S6°42'18"W, along the west line of said Elm Street right-of-way, 433.32 feet to a point on the northerly line of the 100 foot wide right-of-way of the Missouri Pacific Railroad; thence along the northerly line of said Missouri Pacific Railroad right-of-way, the following courses: N81°16'17"W, 418.36 feet; thence N82°10'01"W, 181.31 feet; thence Westerly, on a curve to the left, having a radius of 1970.53 feet, an arc distance

of 1645.67 feet, (the chord of said curve being S72°08'01"W, 1598.26 feet); thence S46°43'48"W, 151.10 feet; thence S45°59'01"W, 342.92 feet to a point on the west line of the aforesaid U.S. Private Survey No. 2611, being the east line of the Northeast Fractional Quarter of Section 20, Township 44 North, Range 10 West; thence leaving the northerly line of said Missouri Pacific Railroad right-of-way, N0°16'00"E, along the west line of said U.S. Private Survey No. 2611, 1218.93 feet to the POINT OF BEGINNING.

Containing 125.44 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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 2. CONVEYANCE OF BOONVILLE CORRECTIONAL CENTER PROPERTY IN BOONVILLE. — **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 property located at the Boonville Correctional Center in Boonville, Cooper County, Missouri, described as follows:**

Tract A (properties lying north of Boonville & Rocheport Public Rd.):

Unplatted and vacant land in the east half of the northeast quarter of Section 36, T49N, R17W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying both east of and abutting and north of and abutting both the east and north lines of an 83.18 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and shown by Surveyor's Record Book 5, Page 219 of the Cooper County records. The west part of said 83.18 acre tract is further subdivided as Boonville Industrial Park by Plat Book 5, Page 271. Said unplatted and vacant land being more particularly described as follows:

Beginning at the northwest corner of Lot 1, Boonville Industrial Park, shown by said subdivision plat and by said survey recorded in Surveyor's Record Book 5, Page 219 as being S5°-00'-00"E 82.03 feet and S82°-32'-47"W, along the north line of said section, 1954.21 feet from the northeast corner of said Section 36; thence, following the lines of said subdivision plat: N85°-00'-00"E 158.46 feet; S0°-40'-17"E 51.00 feet; S88°-08'-52"E 262.75 feet; N78°-30'-00"E 434.94 feet; N2°-23'-30"W 33.00 feet; N80°-19'-48"E 597.42 feet; S11°-09'-53"E 200.74 feet; S7°-55'-12"E 98.98 feet; S69°-32'-29"W 215.33 feet; S45°-25'-18"W 60.86 feet; S24°-51'-03"W 66.36 feet; S2°-44'-59"E 39.63 feet; S24°-03'-26"E 36.71 feet; S40°-40'-59"E 71.49 feet; S42°-13'-19"E 115.91 feet; S38°-36'-17"E 87.13 feet; S38°-24'-35"E 60.03 feet; S22°-01'-08"E 44.24 feet; and S2°-03'-35"w 30.00 feet to the southeast corner of Lot 4 of said subdivision plat; thence, leaving the lines of said subdivision plat and continuing along the lines of said survey, S2°-03'-35"E 20.23 feet; S6°-57'-21"E 50.93 feet; S14°-32'-44"E 74.40 feet; S25°-35'-35"E 170.00 feet; S4°-39'-14"E 28.04 feet; and N87°-04'-23"E 389.8 feet, more or less, to the east line of said Section 36; thence, leaving the lines of said survey, Northerly, along last said Section Line, 1276 feet, more or less, to the northeast corner of said Section; thence S84°-32'-47"W, along the north line of said Section, 1594.8 feet, more or less, to the east line of Tract 2 of the two tracts described by a Deed recorded in Book 350, Page 605; thence, following the lines of said Tract 2: S1°-38'-25"W 79 feet, more or less, to the southeast corner thereof; N85°-40'-40"W 201.21 feet; S1°-38'-40"W 10.25 feet; and S88°-10'-

00"W 153 feet, more or less, to a line perpendicular to first said north line of said Lot 1; thence S5°-00'-00"E 25.33 feet to the point of beginning and containing 18.7 acres, more or less.

This tract is subject to easements and restrictions of record, including any dedicated right-of-way of Morgan Street as implied on said subdivision plat and indicated by an unrecorded survey of Tract 2 of the two tracts described by Deed recorded in Book 350, Page 605.

ALSO, unplatted and vacant land being that part of the northwest quarter of Section 31, T49N, R16W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying south of the Missouri River, and lying both east of and abutting and north of and abutting both the easternmost and north lines of an 83.18 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and shown by a survey recorded in Surveyor's Record Book 5, Page 219, and lying north of the Boonville and Rocheport Public Road. EXCEPTING THEREFROM the Missouri Pacific Railroad right-of-way. Said unplatted and vacant land containing 92 acres, more or less, and including the west part of a 43.7702 acre tract shown by Surveyor's Record Book 7, Page 237, and a 24.552 acre tract shown by Surveyor's Record Book 7, Page 30.

ALSO, unplatted and vacant land being the northeast quarter of Section 31, T49N, R16W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying south of the Missouri Pacific Railroad right-of-way and west of Cole's Branch, and lying north of the Boonville and Rocheport Public Road, and containing 63 acres, more or less, including the east part of a 43.7702 acre tract shown by Surveyor's Record Book 7, Page 237. Said Branch (aka Fort Field Branch) being the west line of an adjoining 43.45 acre tract described by a Warranty Deed recorded in Book 137, Page 23, and the northern part of said Cole's Branch being shown by a 20 foot offset line to the west from said Branch by Surveyor's Record Book 7, Page 237.

The three tracts of land comprising Tract A as previously described, all lying north of the Boonville and Rocheport Public Road in Sections 36-49-17 and 31-49-16, contain a total of 174 acres, more or less.

Tract B (properties lying south of Boonville & Rocheport Public Rd.): Unplatted and vacant land being the west part of the southwest quarter, and the west part of the northwest quarter lying south the Boonville and Rocheport Public Road, all in Section 31, T49N, R16W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, and all lying west of and abutting the west line of a 188.75 acre tract described by a Deed of Personal Representative recorded in Book 159, Page 485. Said unplatted and vacant land containing 129 acres, more or less.

ALSO, unplatted and vacant land in the north half of the northeast quarter of Section 1, T48N, R17W, Cooper County, Missouri, being the south part of that tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and Page 412, being shown as the south part of a 90.69 acre survey in Surveyor's Record Book 5, Page 222, lying both north of and abutting Tract 1, and east of and abutting Tract 2 of a two-tract survey shown by Surveyor's Record Book 5, Page

257, both of the Cooper County records. Said unplatted and vacant land containing 28 acres, more or less.

This tract is subject to easements and restrictions of record, including a north-south sanitary sewer with no known easement.

ALSO, unplatted and vacant land located in the southeast part of the southeast quarter of Section 36, T49N, R17W, Cooper County, Missouri, being the north part of the 90.69 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and Page 412; and lying east of and abutting the east boundary of Trout Dale Subdivision; and lying east of and abutting the east boundary of a tract described by a General Warranty Deed recorded in Book 399, Pages 179 to 181 and shown by an unrecorded plat of Warnhoff Subdivision by LS 1957, dated April, 2004; and lying east of and abutting a 0.25 acre tract described by a Warranty Deed recorded in Book 440, Page 31; and lying east of and abutting the east boundary of Boonville Memorial Gardens Cemetery as shown by Surveyor's Record Book 5, Page 242; Said unplatted and vacant land containing 61 acres, more or less.

This tract is subject to a stormwater drainage easement to the City of Boonville, 30 feet wide by 100 feet in length at the west side of the above described tract and recorded in Book 585, Page 442.

ALSO, unplatted and vacant land located in the north half of the southeast quarter, and in the south half of the northeast quarter of Section 36, T49N, R17W lying south of the Boonville and Rocheport Public Road, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying north of and abutting the 90.69 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and Page 412 and shown in Surveyor's Record Book 5, Page 222; and lying north of and abutting the north line of that tract described by a General Warranty Deed recorded in Book 242, Page 397; and lying east of and abutting the east line of that tract described by a Special Warranty Deed recorded in Book 150, Page 358, EXCEPTING THEREFROM, an 8.265 acre tract of land lying south of the Boonville and Rocheport Public Road and shown by an unrecorded survey by Corporate LS 27D displayed as an unrecorded "As Built" document of the National Guard Armory by Architect A-3088, dated December 3, 1990, and described as follows: Beginning at the northeast corner of said 8.265 acre tract, being S30°-55'-25"W on a direct line, 2533.11 feet from the northeast corner of said Section 36; thence S4°-00'-10"E 604.05 feet; thence N83°-02'-10"W 599.07 feet to a line 50 feet east of and parallel with the southerly extension of Al Bersted Drive; thence N4°-00'-10"W 607.74 feet to the south right-of-way line of said Public Road; thence, following said south right-of-way line: S87°-31'-16"E 40.29 feet; S85°-01'-22"E 203.27 feet; and S80°-48'-54"E 356.73 feet to the point of beginning, said point of beginning being Westerly along the north line of said Section, 1450.73 feet, and S4°-00'-10"E, 2040.20 feet from said northeast section corner. EXCEPTING THEREFROM, a 6.0 acre tract of land in the southwest quarter of the northeast quarter, and in the northeast quarter of the southeast quarter of the northwest quarter of Section 36, T49N, R17W, Cooper County, Missouri, lying south of the Boonville and Rocheport Public Road, described as follows: Beginning on the south right-of-way line of the Boonville and Rocheport Public Road at a line 50 feet west of and parallel with the southerly extension of the centerline of Al

Bersted Drive, being N87°-31'-16"W along said south right-of-way line, 100.64 feet from the northwest corner of an 8.265 acre tract of land lying south of the Boonville and Rocheport Public Road and shown by an unrecorded survey by Corporate LS 27D displayed as an unrecorded "As Built" document of the National Guard Armory by Architect A-3088, dated December 3, 1990, and being S43°-40'-00"W on a direct line, 2892.51 feet from the northeast corner of said Section 36; thence S4°-00'-10"E 400.00 feet; thence S85°-59'-50"W 549 feet, more or less, to the east line of a 14 acre tract being owned by the City of Boonville, Missouri per Special Warranty Deed recorded in Book 150, Page 358; thence, following the eastern lines of said tract: Northerly 249.6 feet, more or less; Westerly 145 feet; and Northerly 175 feet to the south right-of-way line of Locust Street having a total right-of-way of 80 feet; thence, leaving said eastern lines, Easterly, along said right-of-way line, 694 feet, more or less, to the point of beginning and containing 6.0 acres. Said point of beginning being Westerly along the north line of said Section, 2138.52 feet, and S4°-00'-10"E 1893.78 feet from said northeast section corner. Last said unplatted and vacant land containing 88 acres, more or less, not including any implied right-of-way of the Boonville and Rocheport Public Road as indicated by an 83.18 acre tract described by a Quit-Claim Deed recorded in Book 162, Page 208 and shown by Surveyor's Record Book 5, Page 219, by the west part of said 83.18 acre tract further subdivided as Boonville Industrial Park by Plat Book 5, Page 271, and by an unrecorded survey by Corporate LS 27D displayed as an unrecorded "As Built" document of the National Guard Armory by Architect A-3088, dated December 3, 1990.

This tract is subject to easements and restrictions of record, including a north-south sanitary sewer with no known easement.

The four tracts of land comprising Tract B as previously described, all lying south of the Boonville and Rocheport Public Road in Section 31-49-16, in Section 36-49-17, and in Section 1-48-17, contain a total of 306 acres, more or less.

Tract C (Warden's house and dairy operation property): A tract of land in the southwest quarter of the northeast quarter, and in the northeast quarter of the southeast quarter of the northwest quarter of Section 36, T49N, R17W, Cooper County, Missouri, being owned by the State of Missouri per Deed recorded in Book 23, Page 448, lying south of Locust Street, also known as the Boonville and Rocheport Public Road and described as follows: Beginning on the south right-of-way line of the Boonville and Rocheport Public Road at a line 50 feet west of and parallel with the southerly extension of the centerline of Al Bersted Drive, being N87°-31'-16"W along said south right-of-way line, 100.64 feet from the northwest corner of an 8.265 acre tract of land lying south of the Boonville and Rocheport Public Road and shown by an unrecorded survey by Corporate LS 27D displayed as an unrecorded "As Built" document of the National Guard Armory by Architect A-3088, dated December 3, 1990, and being S43-40'-00"W on a direct line, 2892.51 feet from the northeast corner of said Section 36; thence S4°-00'-10"E 400.00 feet; thence S85°-59'-50"W 549 feet, more or less, to the east line of a 14 acre tract being owned by the City of Boonville, Missouri per Special Warranty Deed recorded in Book 150, Page 358; thence, following the eastern lines of said tract: Northerly 249.6 feet, more or less; Westerly 145 feet; and Northerly 175 feet to the south right-of-way line of Locust Street having a total right-of-way of 80 feet as indicated by a General Warranty Deed recorded

in Book 158, Page 753 and stated by House Bill No. 1187 dated September 29, 1980; thence, leaving said eastern lines, Easterly, along said right-of-way line, 694 feet, more or less, to the point of beginning and containing 6.0 acres.

This tract is subject to easements and restrictions 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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 3. CONVEYANCE OF WESTERN RECEPTION AND DIAGNOSTIC CORRECTIONAL CENTER PROPERTY IN ST. JOSEPH. — 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 property located at the Western Reception and Diagnostic Correctional Center in St. Joseph, Buchanan County, Missouri, described as follows:

Tract A

A Tract of land being part of the Northeast Quarter of Section 10 Township 57 North, Range 35 East, Buchanan County, Missouri, and being more particularly described as follows:

Commencing at the East Quarter corner of said Section 10 Township 57 North, Range 35 East; thence North 00°12'14" West along the East line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 100 feet; thence South 89°50'54" East departing the East line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 85.00 feet to the Point of Beginning said point being the intersection of the West right of way of 36th Street and the North right of way of Faraon Avenue as now established; thence North 89°50'54" West along the North right of way of Faraon Avenue a distance of 1,238.01 feet; thence North 00°12'14" West a distance of 540.82 feet; thence South 89°47'46" West departing the East back of curb of said South Drive a distance of 1,237.99 feet to a point on the West right of way of 36th Street; thence South 00°12'14" East along the West right of way of 36th Street a distance of 548.50 feet to the Point of Beginning. Containing 674,277.17 square feet or 15.48 acres more or less.

Tract B

A Tract of land being part of the Northeast Quarter of Section 10 Township 57 North, Range 35 East, Buchanan County, Missouri, and being more particularly described as follows:

Commencing at the Northeast Quarter of said Section 10 Township 57 North, Range 35 East; thence South 89°55'14" West along the North line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 2,214.69 feet; thence South 00°04'46" East departing the North line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 30.00 feet to the intersection with the South right of way of Frederick Avenue as now established and the Northerly projection of the West edge of a concrete walk said point also being the Point of Beginning; thence South 00°42'14" East departing said the South right of way of said Frederick Avenue and along said Northerly projection of the West edge of a concrete walk a distance of 226.87 feet; thence South 88°00'04" West departing the West edge

of said concrete walk a distance of 242.88 feet to the point of intersection with the East back of curb of Rush Road; thence along the East back of curb of said Rush Road the following courses and distances: North 02°18'47" West a distance of 221.77 feet to a point of curvature; thence Easterly along a curve to the left, having a radius of 12.89 feet, a central angle of 92°14'41", and a distance of 20.75 feet to a point of tangency with the South right of way of said Frederick Avenue; thence North 89°55'14" East along the south right of way of said Frederick Avenue a distance of 236.04 feet to the Point of Beginning. Containing 56,814.67 square feet or 1.30 acres more or less.

Tract C
A Tract of land being part of the Northeast Quarter of Section 10 Township 57 North, Range 35 East, Buchanan County, Missouri, and being more particularly described as follows:

Commencing at the Northeast Quarter of said Section 10 Township 57 North, Range 35 East; thence South 89°55'14" West along the North line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 2,214.69 feet; thence South 00°04'46" East departing the North line of the Northeast Quarter of said Section 10 Township 57 North, Range 35 East a distance of 30.00 feet to the intersection with the South right of way of Frederick Avenue as now established and the Northerly projection of the West edge of a concrete walk; thence South 00°42'14" East departing said the South right of way of said Frederick Avenue and along said Northerly projection of the West edge of a concrete walk a distance of 226.87 feet to the Point of Beginning; thence continuing South 00°42'14" East along said West edge of a concrete walk a distance of 226.87 feet to the intersection with an existing wood plank fence; thence along said existing wood plank fence the following courses and distances: South 88°01'45" West a distance of 17.41 feet; thence South 00°20'43" East a distance of 120.24 feet; thence South 39°46'21" West a distance of 55.86 feet; thence North 89°54'15" West departing said existing wood plank fence a distance of 182.73 feet to the point of intersection with the East back of curb of Rush Road; thence North 02°18'47" West along the East back of curb of said Rush Road a distance of 202.60 feet; thence North 88°00'04" East departing the East back of curb of said Rush Road a distance of 242.88 feet to the Point of Beginning. Containing 45,953.77 square feet or 1.06 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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 4. CONVEYANCE OF CENTRAL MISSOURI CORRECTIONAL CENTER PROPERTY IN JEFFERSON 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 property located at the Central Missouri Correctional Center in Jefferson City, Cole County, Missouri, described as follows:

TRACT 3-B
Part of the Southeast Quarter of Section 13, Township 45 North, Range 13 West, Cole County, Missouri, more particularly described as follows:

From the Center of said Section 13; thence S88°18'32"E, along the Quarter Section Line, 277.59 feet to a point on the southerly line of the 100 foot wide Missouri Pacific Railroad right-of-way; thence S49°23'55"E, along the southerly line of said Railroad Right-of-way, 191.44 feet to the center of an existing field road, being a corner on the eastern boundary of the property described by deed of record in Book 495, page 449, Cole County Recorder's Office and the POINT OF BEGINNING for this description; thence continuing along said Railroad Right-of-way line the following courses: S49°23'55"E, 197.17 feet; thence southeasterly, on a spiral curve to the left, a spiral distance of 152.0 feet, (the chord of said spiral being S50°09'13"E, 151.96 feet); thence Southeasterly, on a simple curve to the left, having a radius of 1959.86 feet, an arc distance of 873.11 feet, (the chord of said curve being S64°24'40"E, 865.91 feet); thence Southeasterly, on a spiral curve to the left, a spiral distance of 152.0 feet, (the chord of said spiral being S78°40'07"E, 151.96 feet); thence S79°25'25"E, 122.49 feet; thence leaving the aforesaid Railroad Right-of-way line, S21°45'37"W 1041.68 feet to a point on the northerly line of the Missouri State Highway 179 Right-of-way; thence along the northerly line of said Missouri State Highway 179 Right-of-way, the following courses: N63°57'55"W, 75.04 feet; thence Westerly, on a curve to the left, having a radius of 995.40 feet, an arc distance of 465.55 feet, (the chord of said curve being, N67°35'35"W, 461.31 feet) to a point in the center of an existing field road, being the southeasterly corner of the aforesaid property described in Book 495, page 449; thence leaving the Missouri State Highway 179 Right-of-way line, along the center of said field road and the easterly boundary of said property described in Book 495, page 449, the following courses; N13°21'56"E, 534.20 feet; thence northwesterly, on a curve to the left, having a radius of 130.00 feet, an arc distance of 143.08 feet, (the chord of said curve being N18°09'54"W, 135.97 feet); thence N49°41'43"W, 399.15 feet; thence N47°46'57"W, 326.12 feet; thence northwesterly, on a curve to the right, having a radius of 125.00 feet, an arc distance of 142.57 feet, (the chord of said curve being N15'06'27"W, 134.97 feet); thence N17°34'03"E, 80.68 feet; thence northeasterly, on a curve to the right, having a radius of 270.00 feet, an arc distance of 86.87 feet, (the chord of said curve being N26°47'07"E, 86.50 feet to the POINT OF BEGINNING. Containing 18.65 acres.

TRACT 3-D

Part of the Southeast Quarter of the Southeast Quarter of Section 13, Township 45 North, Range 13 West and part of the Southwest Quarter of Section 18 and part of the Northwest Quarter of Section 19, Township 45 North, Range 12 West, Cole County, Missouri, more particularly described as follows:

From the southeast corner of said Section 13; thence N1°29'15"E, along the Range Line, 60.50 feet to a point on the northerly line of the Missouri State Highway 179 Right-of-way and said point being S1°29'15"W along said Range Line, 401.95 feet from the northwest corner of Section 19, Township 45 North, Range 12 West and being the POINT OF BEGINNING for this description; thence N54°11'40"W, along said Highway 179 Right-of-way line, 654.19 feet; thence N45°56'50"E, 1716.89 feet to a point on the southerly line of the 100 foot wide Missouri Pacific Railroad Right-of-way; thence along said Railroad Right-of-way line the following courses: Southeasterly, on a simple curve to the right, having a radius of 2814.79 feet, an arc distance of 295.34 feet, (the chord of said curve being S72°05'46"E, 295.20 feet); thence Southeasterly, on a spiral curve to the right, a spiral distance of 99.14 feet, (the chord of said spiral being

S68°25'20"E, 99.13 feet); thence S68°05'25"E, 790.69 feet; thence leaving the aforesaid Railroad Right-of-way line, S35°48'20"W, 1995.06 feet to a point on the northerly line of the aforesaid Missouri State Highway 179 Right-of-way; thence N54°11'40"W, along said Highway 179 Right-of-way line, 792.66 feet to the POINT OF BEGINNING. Containing 54.51 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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 5. CONVEYANCE OF FARMINGTON CORRECTIONAL CENTER PROPERTY IN FARMINGTON. — 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 property located at the Farmington Correctional Center in Farmington, St. Francois County, Missouri, described as follows:

INGRESS AND EGRESS EASEMENT

A strip of land 30 feet wide across part of Lot 70 and 71 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois County, Missouri, said 30 foot strip lying 15.00 feet each side of and adjacent to the following described centerline:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S06°20'17"W, 216.36 feet; thence S57°50'37"E, 82.27 feet to the POINT OF BEGINNING for this centerline description; thence northeasterly, on a curve to the right having a radius of 246.00 feet, an arc length of 187.61 feet, (the chord of said curve being N61°05'42"E, 183.10 feet); thence N82°56'37"E, 29.02 feet; thence easterly, on a curve to the right having a radius of 350.00 feet, an arc length of 87.32 feet, (the chord of said curve being S89°54'34"E, 87.09 feet); thence S82°45'45"E, 257.95 feet; thence easterly, on a curve to the right having a radius of 400.00 feet, an arc length of 91.45 feet, (the chord of said curve being S76°12'46"E, 91.25 feet); thence S69°39'46"E, 36.75 feet; thence southeasterly, on a curve to the right having a radius of 250.00 feet, an arc length of 177.87 feet, (the chord of said curve being S49°16'50"E, 174.14 feet); thence S28°53'54"E, 29.12 feet; thence southerly, on a curve to the right having a radius of 150.00 feet, an arc length of 85.38 feet, (the chord of said curve being S12°35'32"E, 84.23 feet); thence S03°42'50"W, 143.95 feet; thence S82°45'45"E, 51.95 feet to the point of termination.

Except all that part of Lot 2 of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office, St. Francois County, Missouri.

Except all that part of Perrine Road right-of-way.

TRACT 1

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

BEGINNING at a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S31°44'48"W, 10.73 feet; thence northwesterly on a curve to the left having a radius of 250.00 feet, an arc length of 49.78 feet (the chord of said curve being N63°57'29"W, 49.70 feet); thence N69°39'46"W, 36.75 feet; thence westerly on a curve to the left having a radius of 400.00 feet, an arc length of 91.45 feet (the chord of said curve being N76°12'46"W, 91.25 feet); thence N82°45'45"W, 257.95 feet; thence westerly on a curve to the left having a radius of 350.00 feet, an arc length of 87.32 feet (the chord of said curve being N89°54'34"W, 87.09 feet); thence S82°56'37"W, 29.02 feet; thence southwesterly on a curve to the left having a radius of 246.00 feet, an arc length of 187.61 feet (the chord of said curve being S61°05'42"W, 183.10 feet); thence N57°50'37"W, 82.27 feet; thence N06°20'17"E, 216.36 feet to the point of beginning. Containing 2.67 acres.

Subject to the northerly 15 feet of a 30 foot wide Ingress and Egress Easement.

TRACT 2
Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof, and the POINT OF BEGINNING for this description; thence S82°45'45"E, along the southerly boundary of said Habitat for Humanity Subdivision, 167.67 feet to the southeasterly corner thereof; thence S06°25'52"W, 321.27 feet; thence N82°45'45"W, 24.78 feet; thence N03°42'50"E, 128.92 feet; thence northerly, on a curve to the left having a radius of 150.00 feet, an arc length of 85.38 feet (the chord of said curve being N12°35'32"W, 84.23 feet); thence N28°53'54"W, 29.12 feet; thence northwesterly on a curve to the left having a radius of 250.00 feet, an arc length of 128.08 feet (the chord of said curve being N43°34'33"W, 126.69 feet); thence N31°44'48"E, 10.73 feet to the point of beginning. Containing 0.44 acres.

Subject to the northeasterly 15 feet of a 30 foot wide Ingress and Egress Easement.

TRACT 3

Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S82°45'45"E, along the southerly boundary of said Habitat for Humanity Subdivision, 167.67 feet to the southeasterly corner thereof; thence S06°25'52"W, 321.27 feet; thence N82°45'45"W, 24.78 feet to the POINT OF BEGINNING for this description; thence N82°45'45"W, 160.55 feet; thence N17°45'13"W, 148.11 feet; thence N40°06'01"E, 190.20 feet; thence southeasterly, on a curve to the right having a radius of 250.00 feet, an arc length of 91.64 feet (the chord of said curve being S39°23'56"E, 91.12 feet); thence S28°53'54"E, 29.12 feet; thence southerly, on a curve to the right having a radius of 150.00 feet, an arc length of 85.38 feet (the chord of said curve being S12°35'32"E, 84.23 feet); thence S03°42'50"W, 128.92 feet to the point of beginning. Containing 1.03 acres.

Subject to the westerly 15 feet of a 30 foot wide Ingress and Egress Easement.

TRACT 4
Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S31°44'48"W, 10.73 feet to the POINT OF BEGINNING for this description; thence southeasterly, on a curve to the right having a radius of 250.00 feet, an arc length of 36.45 feet (the chord of said curve being S54°04'35"E, 36.42 feet); thence S40°06'01"W, 190.20 feet; thence N82°45'45"W, 100.00 feet; thence N19°19'50"E, 213.97 feet; thence easterly, on a curve to the right having a radius of 400.00 feet, an arc length of 44.27 feet (the chord of said curve being S72°50'00"E, 44.25 feet); thence S69°39'46"E, 36.75 feet; thence southeasterly, on a curve to the right having a radius of 250.00 feet, an arc length of 49.78 feet (the chord of said curve being S63°57'29"E, 49.70 feet) to the point of beginning. Containing 0.61 acres.

Subject to the southerly 15 feet of a 30 foot wide Ingress and Egress Easement.

TRACT 5
Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S31°44'48"W, 10.73 feet; thence westerly on a curve to the left having a radius of 250.00 feet, an arc length of 49.78 feet (the chord of said curve being N63°57'29"W, 49.70 feet); thence N69°39'46"W, 36.75 feet; thence westerly on a curve to the left having a radius of 400.00 feet, an arc length of 44.27 feet (the chord of said curve being N72°50'00"W, 44.25 feet) to the POINT OF BEGINNING for this description; thence S19°19'50"W, 213.97 feet; thence N82°45'45"W, 128.00 feet; thence N07°14'15"E, 212.00 feet; thence S82°45'45"E, 125.75 feet; thence easterly on a curve to the right having a radius of 400.00 feet, an arc length of 47.18 feet (the chord of said curve being S79°23'00"E, 47.15 feet) to the point of beginning. Containing 0.73 acres.

Subject to the southerly 15 feet of a 30 foot wide Ingress and Egress Easement.

TRACT 6
Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S31°44'48"W, 10.73 feet; thence westerly on a curve to the left having a radius of 250.00 feet, an arc length of 49.78 feet (the chord of said curve being N63°57'29"W, 49.70 feet); thence N69°39'46"W, 36.75 feet; thence westerly on a curve to the left having a radius of 400.00 feet, an arc length of 91.45 feet (the chord of said curve being N76°12'46"W, 91.25 feet); thence N82°45'45"W, 125.75 feet to the POINT OF BEGINNING for this description; thence S07°14'15"W, 212.00 feet; thence N82°45'45"W, 125.00 feet; thence N05°17'10"W, 214.89 feet; thence easterly, on a curve to the right having a radius of 350.00 feet, an arc length of 39.49 feet (the chord of said curve being S85°59'40"E, 39.47 feet); thence N82°45'45"W, 132.20 feet to the point of beginning. Containing 0.72 acres.

Subject to the southerly 15 feet of a 30 foot wide Ingress and Egress Easement.

TRACT 7
Part of Lot 70 of United States Survey Number 2969, Township 35 North, Range 5 East, in the City of Farmington, St. Francois, County, Missouri, more particularly described as follows:

From a stone marking the northwest corner of said Lot 70, also being the southwest corner of Crosswinds Plat 2 as per plat of record in Plat Book 15, page 163, St. Francois County Recorder's Office; thence S82°45'45"E, along the northerly line of said Lot 70, also being the southerly boundary of said Crosswinds Plat 2, 775.91 feet to the northwest corner of Habitat for Humanity Subdivision, as per plat of record in Plat Book 16, page 473, St. Francois County Recorder's Office; thence S07°05'05"W, along the westerly boundary of said Habitat for Humanity Subdivision, 150.00 feet to the southwesterly corner thereof; thence S31°44'48"W, 10.73 feet; thence westerly on a curve to the left having a radius of 250.00 feet, an arc length of 49.78 feet, (the chord of said curve being N63°57'29"W, 49.70 feet); thence N69°39'46"W, 36.75 feet; thence westerly on a curve to the left having a radius of 400.00 feet, an arc length of 91.45 feet, (the chord of said curve being N76°12'46"W, 91.25 feet); thence N82°45'45"W, 257.95 feet; thence westerly, on a curve to the left having a radius of 350.00 feet, an arc length of 39.49 feet, (the chord of said curve being N85°59'40"W, 39.47 feet) to the POINT OF BEGINNING for this description; thence S05°17'10"E, 214.89 feet; thence N82°45'45"W, 84.46 feet; thence N57°50'37"W, 204.13 feet; thence northeasterly, on a curve to the right having a radius of 246.00 feet, an arc length of 187.61 feet, (the chord of said curve being N61°05'42"E, 183.10 feet); thence N82°56'37"E, 29.02 feet; thence easterly, on a curve to the right having a radius of 350.00 feet, an arc length of 47.83 feet, (the chord of said curve being N86°51'30"E, 47.79 feet) to the point of beginning. Containing 0.80 acres.

Subject to the southerly 15 feet of a 30 foot wide Ingress and Egress Easement.

The property hereby authorized to be conveyed by the governor shall be verified by a survey. Such survey shall be authorized by the division of facilities management, design and construction of the office of administration pursuant to this section.

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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 6. CONVEYANCE OF STATE PROPERTY LOCATED IN FARMINGTON. — 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 property in Farmington, St. Francois County, Missouri, described as follows:

TRACT A
(Property north of cemetery and south of Doubet Road)
Part of Lots 85 and 94 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:

From the southeast corner of said Lot 85; thence N82°17'32"W, along the southerly line of said Lot 85, 1134.20 feet; thence N8°01'10"E, 181.95 feet to the POINT OF BEGINNING for this description; thence N82°17'57"W, 537.96 feet to the easterly line of a 30 foot road; thence N7°08'47"E, 1166.91 feet; thence S81°30'19"E, 260.68 feet; thence N9°01'04"E, 206.03 feet to the northerly line of said Lot 94; thence S82°11'48"E, along the northerly line of said Lots 94 and 85, 291.47 feet; thence S8°01'10"W, 1368.72 feet to the point of beginning. Containing 16.00 acres.

EXCEPT all that part of right-of-way of DOUBET ROAD

TRACT B
Part of Lot 94 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:

From the southeast corner of Lot 85 of said U.S. Survey 2969; thence N82°17'32"W, along the southerly line of said Lot 85, 1134.20 feet; thence N8°01'10"E, 181.95 feet; thence N82°17'57"W, 537.96 feet to the easterly line of a 30 foot road; thence N7°08'47"E, 320.10 feet to the POINT OF BEGINNING for this description; thence N81°42'19"W, 330.73 feet to the westerly line of a tract of land described by deed of record in Book 1164, page 627, St. Francois County Recorder's Office; thence N7°02'28"E, along the easterly line of said tract, 218.13 feet to the southwesterly corner of a tract of land described by deed of record in Book 834, page 413, St. Francois County Recorder's Office; thence S82°21'13"E, along the southerly line of said tract, described in Book 834, page 413, 331.08 feet to the southeasterly corner thereof also being the easterly line of a 30 foot wide roadway; thence S7°08'47"W, along the easterly line of said roadway, 221.87 feet to the point of beginning. Containing 1.67 acres.

EXCEPT a roadway 30 foot wide off the east side of the above described tract identified as Pullan Road in plats of record.

TRACT C
Part of Lot 94 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:

From the southeast corner of Lot 85 of said U.S. Survey 2969; thence N82°17'32"W, along the southerly line of Lot 85 and the southerly line of Lot 94, 1669.38 feet to the POINT OF BEGINNING for this description; thence continuing N82°17'32"W, along the southerly line of said Lot 94, 329.75 feet to the southeasterly corner of a tract of land described by deed of record in Book 1164, page 627, St. Francois County Recorder's Office; thence N7°02'28"E, along the easterly line of said tract, 505.39 feet; thence S81°42'19"E, 330.73 feet to the easterly line of a 30 foot road; thence S7°08'47"W, along the easterly line of said road, 501.99 feet to the point of beginning. Containing 3.81 acres.

EXCEPT a roadway 30 foot wide off the east side of the above described tract identified as Pullan Road in plats of record.

The property hereby authorized to be conveyed by the governor shall be verified by a survey. Such survey shall be authorized by the division of facilities

management, design and construction of the office of administration pursuant to this section.

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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 7. CONVEYANCE OF FULTON RECEPTION AND DIAGNOSTIC CORRECTIONAL CENTER PROPERTY IN FULTON. — 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 property located at the Fulton Reception and Diagnostic Correctional Center in Fulton, Callaway County, Missouri, described as follows:

TRACT A

Part of the Southeast Quarter of Section 16, and part of the West Half of the Southwest Quarter of Section 15, Township 47 North, Range 9 West, Callaway County, Missouri, more particularly described as follows:

BEGINNING at the northwest corner of the Northwest Quarter of the Southwest Quarter of said Section 15; thence S89°41'24"E, along the northerly line of the Northwest Quarter of the Southwest Quarter of said Section 15, 275.73 feet; thence S43°20'20"W, 300.92 feet; thence S8°05'56"W, 304.60 feet; thence S17°41'13"W, 361.72 feet; thence S5°41'53"W, 119.01 feet; thence S19°13'46"E, 558.62 feet; thence N67°06'22"W, 312.53 feet; thence S70°06'18"W, 281.29 feet; thence S33°00'28"W, 139.44 feet to the northerly right-of-way line of Missouri State Route "O", as described in Book 154, page 119, Callaway County Recorder's Office; thence northwesterly along the northerly right-of-way line of Missouri State Route "O", as described in Book 154, page 119 on a curve to the left having a radius of 1462.79 feet, an arc distance of 30.60 feet (Ch=N57°45'00"W, 30.60 feet) to the southeasterly corner of the tract described in Book 315, page 600, Callaway County Recorder's Office; thence N1°36'43"E, along the easterly line of the tracts described in Book 315, page 600 and Book 352, page 299 and the northerly extension thereof, 1610.55 feet to the northerly line of the Northeast Quarter of the Southeast Quarter of said Section 16; thence S87°29'48"E, along the northerly line of the Northeast Quarter of the Southeast Quarter of said Section 16, 520.88 feet to the point of beginning. Containing 18.91 acres.

TRACT B

Part of the Northeast Quarter of the Southwest Quarter of Section 15, Township 47 North, Range 9 West, Callaway County, Missouri, more particularly described as follows:

From the center of said Section 15; thence S0°57'07"W, along the Quarter Section Line, 156.02 feet to the POINT OF BEGINNING for this description thence S0°57'07"W, continuing along the Quarter Section Line, 1169.11 feet to the southeast corner of the Northeast Quarter of the Southwest Quarter of said Section 15; thence N89°33'02"W, along the Quarter Quarter Section Line, 699.01 feet; thence N37°22'48"E, 220.49 feet; thence N25°16'24"E, 146.24 feet; thence N14°35'08"E, 130.09 feet; thence N4°21'20"E, 212.38 feet; thence

N16°35'17"E, 144.05 feet; thence N24°19'16"W, 124.59 feet; thence N61°06'31"E, 552.14 feet to the point of beginning. Containing 12.00 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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 8. CONVEYANCE OF MARYVILLE TREATMENT CENTER PROPERTY IN MARYVILLE. — 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 property located at the Maryville Treatment Center in Maryville, Nodaway County, Missouri, described as follows:

A Tract of land being part of the Southwest Quarter of Section 14, Township 64 North, Range 35 West, Nodaway County, Missouri, and being more particularly described as follows:

Commencing at the Southwest Corner of said Section 14; thence North 00°35'05" East along the West line of said Section 14 a distance of 963.40 feet to the Point of Beginning; thence continuing North 00°35'05" East along the West line of said Section 14 a distance of 364.65 feet to a point of intersection with the Westerly projection of the North line of a tract of land belonging to the State of Missouri; thence South 89°09'49" East along the North line of said tract of land belonging to the State of Missouri a distance of 800.28 feet; thence South 16° 24' 55" West departing the North line of said tract of land belonging to the State of Missouri a distance of 413.08 feet; thence North 75°25'01" West a distance of 74.74 feet; thence North 67°11'53" West a distance of 3.02 feet to a point of curvature; thence Northwesterly along a curve to the right, having a radius of 108.29 feet, a central angle of 40°49'11", and a distance of 77.15 feet to a point of tangency; thence North 26°22'41" West a distance of 51.08 feet to a point of curvature; thence Westerly along a curve to the left, having a radius of 91.52 feet, a central angle of 62°25'44", and a distance of 99.72 feet to a point of tangency; thence North 88°48'25" West a distance of 53.84 feet; thence South 88°43'03" West a distance of 48.53 feet to a point of curvature; thence Southwesterly along a curve to the left, having a radius of 103.12 feet, a central angle of 34°21'16", and a distance of 61.83 feet to a point of tangency; thence South 54°21'47" West a distance of 16.87 feet to a point of curvature; thence Westerly along a curve to the right, having a radius of 42.52 feet, a central angle of 48°35'05", and a distance of 36.06 feet to a point of tangency; thence North 77°03'09" West a distance of 26.26 feet to a point of curvature; thence Southerly along a curve to the left, having a radius of 60.88 feet, a central angle of 73°32'23", and a distance of 78.14 feet to a point of tangency; thence South 29°24'28" West a distance of 47.92 feet to a point of curvature; thence Westerly along a curve to the right, having a radius of 47.68 feet, a central angle of 60°56'08", and a distance of 47.68 feet to a point on a non-tangent line; thence North 89°39'50" West a distance of 88.48 feet to the Point of Beginning. Containing 228,660.55 square feet or 5.25 acres more or less except that part in Katydid Road 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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 9. CONVEYANCE OF EASTERN RECEPTION DIAGNOSTIC CORRECTION CENTER PROPERTY IN BONNE TERRE. — 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 property located at the Eastern Reception Diagnostic Correctional Center in Bonne Terre, St. Francois County, Missouri, described as follows:

A Tract of land being part of U.S. Survey 71, Township 37 North, Range 5 East, St. Francois County, Missouri, and being more particularly described as follows:

Commencing at the common corner of U.S. Surveys 71 and 72 on the South line of U.S. Survey 2047; thence North 82°40'13" West along the Northern line of a tract of land described by Special Warranty Deed dated July 18, 2000 in Book 1425, Page 1004, St. Francois County, Missouri a distance of 436.79 feet; thence South 44°13'58" West along the Northwesterly line of a tract of land described by aforementioned deed a distance of 1,989.23 feet; thence South 07°25'39" West along the Westerly line of a tract of land described by aforementioned deed a distance of 376.07 feet to the Point of Beginning; thence South 82°34'21" East a distance of 773.01 feet to a point 15 feet south and perpendicular from the southwest corner of existing fence for a sanitary sewer pump station; thence North 88°30'04" East along a line 15 foot parallel offset south with the south line of said existing fence for a sanitary sewer pump station a distance of 20.38 feet to a point not to encroach on a 400 foot parallel offset westerly from the westerly edge of an existing gravel perimeter drive hereinafter referred to as 400 foot buffer zone; thence South 01°56'19" East along said 400 foot buffer zone a distance of 255.11 feet; thence South 00°57'30" West along said 400 foot buffer zone, 215 feet westerly from the west corner of an existing parking lot a distance of 669.14 feet; thence North 83°26'49" West along a Southern course of a tract of land described by aforementioned deed a distance of 723.84 feet; thence North 06°31'26" East along a Western course of a tract of land described by aforementioned deed a distance of 447.39 feet; thence North 84°40'04" West along a Southern course of a tract of land described by aforementioned deed a distance of 179.37 feet; thence North 07°25'39" East along a Western course of a tract of land described by aforementioned deed a distance of 483.69 feet to the Point of Beginning. Containing 707,280.76 square feet or 16.24 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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 10. CONVEYANCE OF MISSOURI EASTERN CORRECTIONAL CENTER PROPERTY IN PACIFIC. — 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 property located at the Missouri Eastern Correctional Center in Pacific, St. Louis County, Missouri, described as follows:

A Tract of land being part of Fraction Section 5, Township 43 North, Range 3 East, and United States Survey 148, St. Louis County, Missouri, and being more particularly described as follows:

Commencing at the Southerly most corner of the Eureka Fire Protection District Training Facility, a plat filed for record in Book 350, Page 811 on December 19,

2002 in St. Louis County, Missouri said point also being on the Westerly right of way of U.S. Highway 66 as shown on said Eureka Fire Protection District Training Facility plat; thence North 43°23'00" West along the Southwest line of said Eureka Fire Protection District Training Facility plat and it's Northwesterly projection thereof, said line also being the Northeast line of Allenton Acres, a plat filed for record in Book 47, Page 46 on April 14, 1950 in St. Louis County, Missouri a distance of 1,120.48 feet to the Point of Beginning, said point being at the angle point shown in the Northeast line of said Allenton Acres being marked by a Stone 30.11 feet South of the North corner of Tract No. 19 of said Allenton Acres; thence North 30°13'00" West along the Northeast line of said Allenton Acres a distance of 1,870.21 feet to the East corner of Tract No. 26 of said Allenton Acres; thence North 59°58'00" East along the Northeasterly projection of the Southeasterly line of said Tract No. 26 a distance of 245.64 feet to a point not to encroach on a 200 foot parallel offset Southwesterly from the top of the firing range berm extending Southeasterly to the intersection with the Southwesterly edge of a gravel drive which becomes asphalt, hereinafter referred to as 200 foot buffer zone; thence South 31°55'00" East along said 200 foot buffer zone a distance of 529.34 feet; thence South 26°22'23" East along said 200 foot buffer zone a distance of 826.89 feet; thence South 35°53'59" East along said 200 foot buffer zone a distance of 620.46 feet to a point on a 316.60 foot parallel offset Westerly from the Westerly line of said Eureka Fire Protection District Training Facility plat; thence South 38°15'40" West along said 316.60 foot parallel offset Westerly from the Westerly line of said Eureka Fire Protection District Training Facility plat a distance of 239.61 feet to a point on the Northeast line of said Allenton Acres; thence North 43°23'00" West along the Northeast line of said Allenton Acres a distance of 195.15 feet to the Point of Beginning. Containing 482,550.25 square feet or 11.08 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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 11. CONVEYANCE OF SOUTH CENTRAL CORRECTIONAL CENTER PROPERTY IN LICKING. — 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 property located at the South Central Correctional Center in Licking, Texas County, Missouri, described as follows:

A Tract of land being part of Lot 1, Northwest 1/4 Section 1, Township 32 North, Range 9 West, Texas County, Missouri, and being more particularly described as follows:

Commencing at the Southwest corner of said Lot 1, of the Northwest 1/4, Section 1, Township 32 North, Range 9 West, said point also being the West Quarter corner of said Section 1, Township 32 North, Range 9 West being marked by a Stone; thence North 00°06'15" West along the West line of said Lot 1, of the Northwest Quarter Section 1, as described by Warranty Deed dated April 6, 1998 in Book 580, Page 88, Texas County, Missouri a distance of 467.02 feet to the Northwest corner of a 5 acre tract of land shown as Tract 1 on a survey by Elgin Surveying and Engineering Inc. dated March 25, 1999 said point also being Point of Beginning; thence continuing North 00°06'15" West along the West line of said Lot 1, of the Northwest Quarter Section 1 as described by

aforementioned deed a distance of 882.20 feet to the Northwest corner of said Lot 1, said Northwest corner also being the Northwest corner of the Northwest Quarter of said Section 1; thence South 86°41'01" East along the North line of said Lot 1 as described by aforementioned deed a distance of 1,339.33 feet to the intersection with the Northerly prolongation of the West line of the Northeast Quarter of the Southwest Quarter of said Section 1; thence South 00°21'20" West along the Northerly prolongation of the West line of the Northeast Quarter of the Southwest Quarter of said Section 1; a distance of 1,340.40 feet to the Northwest corner of the Northeast Quarter of the Southwest Quarter of said Section 1; thence North 87°02'15" West along the South line of said Lot 1 as described by aforementioned deed a distance of 861.09 feet to the Southeast corner of said Tract 1; thence North 00°06'15" West along the east line of said Tract 1 a distance of 467.02 feet to the Northeast corner of said Tract 1; thence North 87°02'15" West along the North line of said Tract 1 a distance of 467.02 feet to the Point of Beginning. Containing 1,573,308.10 square feet or 36.12 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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 12. CONVEYANCE OF POTOSI CORRECTIONAL CENTER PROPERTY IN POTOSI. — 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 property located at the Potosi Correctional Center in Potosi, Washington County, Missouri, described as follows:

A Tract of land being part of U.S. Survey 2134, and U.S. Survey 2115 Township 37 North, Range 3 East, Washington County, Missouri, and being more particularly described as follows:

Commencing at the Southwest corner of said U.S. Survey 2134; thence North 08°38'55" East along the West line of said U.S. Survey 2134 and the East line of said U.S. Survey 2115 a distance of 2,263.30 feet to the point of intersection with the North right of way of Missouri Route "O"; thence S 86°07'43" West along the North right of way of said Missouri Route "O" a distance of 552.50 feet to a point on the West line of a tract of land described by Missouri Special Warranty Deed dated August 29, 1996 also being the West line of a tract of land described by Deed of Trust and Security Agreement dated July 15 1992 recorded July 30 1992 in Deed of Trust Book 129 Page 668 in Washington County, Missouri; thence North 04°08'12" West along said West line a distance of 770.00 feet; thence North 85°51'18" East departing said West line a distance of 237.06 feet; thence South 56°00'35" East a distance of 529.53 feet to a point on the West line of said U.S. Survey 2134 and the East line of said U.S. Survey 2115; thence South 04°08'12" East parallel with said West line of a tract of land described by Deed of Trust and Security Agreement dated July 15 1992 recorded July 30 1992 in Deed of Trust Book 129 Page 668 in Washington County, Missouri; a distance of 446.09 feet to the North right of way of said Missouri Route "O" ; thence South 86°07'43" West along the North right of way of said Missouri Route "O" a distance of 101.12 feet to the Point of Beginning. Containing 436,180.00 square feet or 10.01 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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 13. CONVEYANCE OF CHILLICOTHE CORRECTIONAL CENTER PROPERTY IN CHILLICOTHE. — 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 property located at the Chillicothe Correctional Center in Chillicothe, Livingston County, Missouri, described as follows:

DEED DESCRIPTION PARENT TRACT:

The North One Hundred Forty-five and One-half (145 1/2) acres of the Northwest Quarter of Section Nineteen (19), Township Fifty-eight (58), Range Twenty-three (23).

SURVEY DESCRIPTION:

A tract of land lying in the Northwest Quarter of Section 19, Township 58 North, Range 23 West, of the fifth principal meridian, being more particularly described as follows:

Commencing at an iron pin marking the Northwest corner of said Section 19; thence along the West line of said Section 19, South 00 degrees 00 minutes 18 seconds East, a distance of 1467.18 feet to the Point of Beginning, thence South 89 degrees 57 minutes 41 seconds East, a distance of 30.00 feet to an iron rod; thence South 89 degrees 57 minutes 41 seconds East, a distance of 732.03 feet to an iron rod; thence South 63 degrees 50 minutes 21 seconds East, a distance of 332.19 feet to an iron rod; thence South 89 degrees 57 minutes 41 seconds East, a distance of 1827.07 feet to an iron rod on the East line of said Northwest Quarter; thence along said East line, South 00 degrees 14 minutes 09 seconds West, a distance of 601.50 to an iron rod; thence North 89 degrees 57 minutes 41 seconds West, a distance of 2884.72 feet to an iron rod on the West line of said Section 19; thence North 00 degrees 00 minutes 18 seconds West, a distance of 747.76 feet to the POINT OF BEGINNING, containing 42.9 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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 14. CONVEYANCE OF TIPTON CORRECTIONAL CENTER PROPERTY IN TIPTON. — 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 property located at the Tipton Correctional Center in Tipton, Moniteau County, Missouri, described as follows:

TRACT #1:

A tract of land lying in the Northwest Quarter of Section 15, Township 45 North, Range 17 West of the fifth principal meridian, Moniteau County, Missouri, being more particularly described as follows:

Beginning at a stone marking the Northeast corner of the Northwest Quarter of said Section 15; thence South 01 degrees 55 minutes 18 seconds West, a distance of 1629.74 feet to an iron pipe; thence North 89 degrees 49 minutes 26 seconds

West, a distance of 1195.00 feet to a point on the Easterly right-of-way of State Route B from which an iron pipe bears South 89 degrees 49 minutes 26 seconds East, a distance of 0.80 feet; thence North 01 degrees 59 minutes 40 seconds East, a distance of 356.24 feet to an iron rod; thence along the arc of a tangent curve to the left, having a radius of 603.81 feet for a length of 148.79 feet (chord=N05°03'54"W-148.42') to an iron rod; thence North 90 degrees 00 minutes 00 seconds East, a distance of 411.23 feet to an iron rod; thence North 00 degrees 00 minutes 00 seconds East, a distance of 1016.42 feet to an iron rod; thence North 90 degrees 00 minutes 00 seconds East, a distance of 232.48 feet to an iron rod; thence North 45 degrees 00 minutes 00 seconds East, a distance of 158.22 feet to the North line of said Section 15; thence South 89 degrees 11 minutes 16 seconds East, a distance of 494.81 feet to the POINT OF BEGINNING, containing 34.4 acres.

TRACT #2:
A tract of land lying in the Southwest Quarter of the Southwest Quarter of Section 10 and the Northwest Quarter of Section 15, Township 45 North, Range 17 West of the fifth principal meridian, Moniteau County, Missouri, being more particularly described as follows:

Beginning at an iron pipe marking the Northwest corner of said Section 15; thence North 35 degrees 34 minutes 25 seconds East, a distance of 586.57 feet to an iron rod; thence South 02 degrees 01 minutes 15 seconds West, a distance of 2097.22 feet to an iron rod; thence North 89 degrees 45 minutes 08 seconds West, a distance of 317.27 feet to a point on the West line of said Section 15 from which an iron pipe bears South 89 degrees 45 minutes 08 seconds East, a distance of 32.46 feet; thence along said West line, North 01 degrees 46 minutes 13 seconds East, a distance of 195.48 feet (195.54' record) to a point from which an iron rod bears South 89 degrees 40 minutes 35 seconds East, a distance of 30.00 feet; thence South 89 degrees 40 minutes 35 seconds East, a distance of 240.65 feet (240.43' record) to an iron pipe; thence North 01 degrees 30 minutes 39 seconds East, a distance of 364.18 feet to an iron rod; thence North 88 degrees 21 minutes 01 seconds West, a distance of 238.93 feet to an iron pipe on the West line of said Section 15; thence North 01 degrees 46 minutes 13 seconds East, a distance of 1053.00 feet (1052.89' record) to the POINT OF BEGINNING, containing 11.7 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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 15. CONVEYANCE OF WOMEN'S EASTERN RECEPTION AND DIAGNOSTIC CENTER PROPERTY IN VANDALIA. — 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 property located at the Women's Eastern Reception and Diagnostic Correctional Center in Vandalia, Audrain County, Missouri, described as follows:

TRACT #1
A tract of land lying in the Northeast Quarter of Section 5, Township 52 North, Range 5 West of the fifth principal meridian, Audrain County, Missouri being more particularly described as follows:

Beginning at an iron rod marking the Northwest corner of Section 4, Township 52 North, Range 5 West; thence along the East line of said Section 5, South 00 degrees 06 minutes 12 seconds West, a distance of 421.74 feet to an iron rod; thence South 45 degrees 06 minutes 12 seconds West, a distance of 203.01 feet to an iron rod; thence South 02 degrees 32 minutes 35 seconds West, a distance of 844.29 feet to an iron rod; thence South 59 degrees 14 minutes 50 seconds East, a distance of 208.64 feet to an iron rod on the North line of McPike Street; thence along the Northern line of McPike Street, South 59 degrees 58 minutes 55 seconds West, a distance of 683.55 feet to an iron rod; thence along the West line of the East 23 acres (lying North of McPike Street) of the Northeast Quarter of said Section 5, North 00 degrees 06 minutes 12 seconds East, a distance of 1873.87 feet to an iron rod on the North line of said Section 5; thence South 88 degrees 22 minutes 45 seconds East, a distance of 591.45 feet to the POINT OF BEGINNING, containing 19.4 acres.

TRACT #2
A tract of land lying in the Northwest Quarter of Section 4, Township 52 North, Range 5 West of the fifth principal meridian, Audrain County, Missouri being more particularly described as follows:

Commencing at an iron rod marking the Northwest corner of said Section 4; thence along the West line of said Section 4, South 00 degrees 06 minutes 12 seconds West, a distance of 1515.19 feet to an iron rod and the POINT OF BEGINNING; thence South 58 degrees 58 minutes 06 seconds East, a distance of 615.40 feet to an iron rod; thence South 71 degrees 06 minutes 15 seconds East, a distance of 439.54 feet to an iron rod; thence South 00 degrees 06 minutes 52 seconds West, a distance of 173.66 feet to an iron rod on the Northerly right-of-way of U.S. Highway 54; thence along said right-of-way, Southwesterly along the arc of a curve the right, having a radius of 1392.39 feet for a length of 331.89 feet (chord = S75°12'14"W -331.10') to an iron rod at the Southeast corner of a tract conveyed to Giltner in Book 277 at Page 893; thence North 00 degrees 06 minutes 12 seconds East, a distance of 201.55 feet to an iron rod at the Northeast corner of said Giltner tract; thence along the North line of said Giltner tract and it's Westerly extension, North 89 degrees 53 minutes 48 seconds West, a distance of 624.00 feet to a point on the West line of said Section 4 at the Northwest corner of a tract conveyed to Casey's Marketing Company in Book 290 at Page 65; thence along the West line of said Section 4, North 00 degrees 06 minutes 12 seconds East, a distance of 515.13 feet to the POINT OF BEGINNING, containing 6.8 acres.

TRACT #3
A tract of land lying in the Northwest Quarter of Section 4, Township 52 North Range 5 West of the fifth principal meridian, Audrain County, Missouri being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 4; thence North 88 degrees 12 minutes 50 seconds West, a distance of 420.39 feet to an iron rod and the POINT OF BEGINNING; thence South 00 degrees 20 minutes 10 seconds East, a distance of 660.82 feet to an iron rod at the Northwest corner of a tract conveyed to Davis in Book 212 at Page 104; thence along the West line of said Davis tract extended, South 00 degrees 20 minutes 10 seconds

East, a distance of 658.74 feet to an iron rod at Southwest corner of a tract conveyed to Heaston in Book 277 at Page 173 said point also being the Northerly right-of-way of U.S. Highway 54; thence along said right-of-way, South 59 degrees 58 minutes 21 seconds West, a distance of 23.02 feet to an iron rod at the Southeast corner of a tract conveyed to Warren County Concrete LLC in Book 296 at page 909; thence North 00 degrees 20 minutes 10 seconds West, a distance of 237.04 feet to an iron rod at the Northeast corner of said tract; thence along the North line of said tract, South 89 degrees 08 minutes 08 seconds West, a distance of 177.91 feet to an iron rod; thence North 00 degrees 20 minutes 10 seconds West, a distance of 1102.95 feet to an iron rod on the North line of said Section 4; thence South 88 degrees 12 minutes 50 seconds East, a distance of 198.04 feet to the POINT OF BEGINNING, containing 5.1 acres.

TRACT #4
A tract of land lying in the Northwest Quarter of Section 4, Township 52 North Range 5 West of the fifth principal meridian, Audrain County, Missouri being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 4; thence North 88 degrees 12 minutes 50 seconds West, a distance of 213.15 feet to an iron rod and the POINT OF BEGINNING; thence South 00 degrees 20 minutes 10 seconds East, a distance of 660.84 feet to an iron rod at the Northeast corner of a tract conveyed to Davis in Book 212 at Page 104; thence North 88 degrees 12 minutes 43 seconds West, a distance of 207.25 feet to an iron rod at the Northwest corner of said Davis tract; thence North 00 degrees 20 minutes 10 seconds West, a distance of 660.82 feet to an iron rod on the North line of said Section 4; thence South 88 degrees 12 minutes 50 seconds East, a distance of 207.24 feet to the POINT OF BEGINNING, containing 3.1 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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 16. CONVEYANCE OF MOBERLY CORRECTIONAL CENTER PROPERTY IN MOBERLY. — 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 property located at the Moberly Correctional Center in Moberly, Randolph County, Missouri, described as follows:

TRACT #1
A tract of land lying in the South half of the Southwest Quarter of Section 24 of the fifth principal meridian, Randolph County, Missouri being more particularly described as follows:

Commencing at an iron rod marking the Southwest corner of said Section 24; thence South 88 degrees 25 minutes 02 seconds East, a distance of 37.74 feet to an iron rod on the Easterly right-of-way line of Route AA and the POINT OF BEGINNING; thence along said right-of-way the following courses and distances, North 01 degrees 01 minutes 31 Seconds East, a distance of 1255.56 feet to an iron rod; thence North 31 degrees 42 minutes 09 seconds East, a distance of 68.60 feet to an iron rod; thence North 01 degrees 01 minutes 31

seconds East, a distance of 23.23 feet to the North line of the South Half of the Southwest Quarter of said Section 24; thence along said North line, South 88 degrees 20 minutes 53 seconds East, a distance of 1484.22 feet to a cotton gin spike; thence South 06 degrees 00 minutes 00 seconds East, a distance of 961.29 feet to an iron rod; thence South 68 degrees 34 minutes 57 seconds West, a distance of 981.65 feet to an iron rod; thence North 88 degrees 25 minutes 02 seconds West, a distance of 729.33 feet to an iron rod on the Easterly right-of-way line of Route AA and the POINT OF BEGINNING, containing 44.9 acres.

TRACT #2
A tract of land lying in the Southeast Quarter of the Northeast Quarter of Section 26, Township 53 North, Range 14 West of the fifth principal meridian, Randolph County, Missouri being more particularly described as follows:

Commencing at an iron rod marking the Southeast corner of said Northeast Quarter of said Section 26; thence along the South line of said Northeast Quarter, North 89 degrees 16 minutes 06 seconds West, a distance of 40.20 feet to an iron rod on the Westerly right-of-way of Route AA and the POINT OF BEGINNING; thence continuing North 89 degrees 16 minutes 06 seconds West, a distance of 895.00 feet to an iron rod; thence North 01 degrees 27 minutes 48 seconds East, a distance of 1170.00 feet to an iron rod; thence South 89 degrees 11 minutes 58 seconds East, a distance of 895.00 feet to an iron rod on the Westerly right-of-way of said Route AA; thence along said right-of-way, South 01 degrees 27 minutes 31 seconds West, a distance of 1135.35 feet to a right-of-way marker; thence South 01 degrees 37 minutes 31 seconds West, a distance of 33.57 feet to the POINT OF BEGINNING, containing 24.0 acres.

TRACT #3
A tract of land lying in the Southwest Quarter of the Northeast Quarter of Section 26, Township 53 North, Range 14 West of the fifth principal meridian, Randolph County, Missouri being more particularly described as follows:

Commencing at an iron rod marking the Southwest corner of the Northeast Quarter; thence along the West line of said Northeast Quarter, North 00 degrees 53 minutes 48 seconds East, a distance of 50.00 feet to an iron rod and the POINT OF BEGINNING; thence continuing North 00 degrees 53 minutes 48 seconds East, a distance of 630.43 feet to an iron rod at the centerline of an old railroad bed; thence along said centerline, North 60 degrees 58 minutes 53 seconds East, a distance of 1068.18 feet to an iron rod; thence South 01 degrees 27 minutes 48 seconds West, a distance of 1210.58 feet to an iron rod on the South line of said Northeast Quarter; thence North 89 degrees 16 minutes 06 seconds West, a distance of 250.85 feet to an iron rod; thence North 89 degrees 16 minutes 06 seconds West, a distance of 613.10 feet to an iron rod; thence North 00 degrees 53 minutes 48 seconds East, a distance of 50.00 feet to an iron rod; thence North 89 degrees 16 minutes 06 seconds West, a distance of 50.00 feet to the POINT OF BEGINNING, containing 19.9 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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 17. CONVEYANCE OF ST. FRANCOIS COUNTY CORRECTIONAL FACILITY PROPERTY IN FARMINGTON TO 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 property located at the St. Francois County Correctional Facility in Farmington, St. Francois County, Missouri, to St. Francois County described as follows:

Part of Lot 85 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:

From the southeast corner of said Lot 85; thence N82°17'32"W, along the southerly line of said Lot 85, 681.19 feet; thence N8°01'10"E, 1086.14 feet to an iron rod and the POINT OF BEGINNING for this description; thence N81°58'50"W, 453.00 feet to an iron rod; thence N8°01'10"E, 462.07 feet to the northerly line of said Lot 85; thence S81°11'48"E, along the northerly line of said Lot 85, 453.00 feet; thence S8°01'10"W, 463.78 feet to the point of beginning. Containing 4.81 acres.

EXCEPT all that part of right-of-way of DOUBET ROAD
Ingress & Egress Easement Description for above described property at Northwest Driveway

Part of Lot 85 and Lot 94 of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:

From the southeast corner of said Lot 85; thence N82°17'32"W, along the southerly line of said Lot 85, 681.19 feet; thence N8°01'10"E, 1086.14 feet to an iron rod; thence N81°58'50"W, 453.00 feet to an iron rod; thence N8°01'10"E, 382.07 feet to the POINT OF BEGINNING for this description; thence N4°24'17"W, 58.00 feet; thence N41°50'28"E, 36.00 feet to the northerly line of said Lot 94; thence S81°11'48"E, along the northerly line of said Lot 94 and said Lot 85, 40.00 feet; thence S8°01'10"W, 80.00 feet to the point of beginning.

EXCEPT all that part of right-of-way of DOUBET ROAD

The property hereby authorized to be conveyed by the governor shall be verified by a survey. Such survey shall be authorized by the division of facilities, management, design and construction of the office of administration pursuant to this section.

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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 18. CONVEYANCE OF ADRIANS ISLAND PROPERTY IN COLE COUNTY TO JEFFERSON CITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey, a permanent sidewalk easement over, on and under property owned by the state of Missouri located at the Adrians Island in Cole County, Missouri to the City of Jefferson. The easement to be conveyed is more particularly described as follows:

From the southeasterly corner of Inlot 69 of said City of Jefferson, Missouri, being a point on the northerly line of West Main Street; thence N47º34'39"W,

along the southerly line of said Inlot 69 and the northerly line of West Main Street, 81.24 feet to the most westerly corner of the aforesaid tract of land described in Book 222, page 635, Cole County Recorder's Office; thence N54º20'21"E, along the northwesterly boundary of said tract described in Book 222, page 635, 215.95 feet to the POINT OF BEGINNING for this description; thence continuing N54º20'21"E, along the northwesterly boundary of said tract described in Book 222, page 635, 57.98 feet; thence N74º18'22"E, 21.47 feet; thence Northeasterly, on a curve to the left, having a radius of 53.50 feet, an arc distance of 28.29 feet (the chord of said curve being N59º09'19"E, 27.97 feet); thence N44º00'17"E, 36.99 feet; thence N45º59'43"W, 3.09 feet to a point on the aforesaid northwesterly boundary of the property described in Book 222, page 635; thence N54º20'21"E, along the northwesterly boundary of said property described in Book 222, page 635, 6.68 feet to the most northerly corner thereof; thence S47º41'54"E, along the northeasterly boundary of said property described in Book 222, page 635, 28.93 feet; thence S68º15'20"W, 18.39 feet; thence S44º00'17"W, 41.47 feet; thence S74º18'22"W, 85.87 feet; thence S61º46'15"W, 15.35 feet to the POINT OF BEGINNING

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 19. PERMANENT LEVEE EASEMENT ON CHURCH FARM PROPERTY IN COLE COUNTY TO BE CONVEYED TO THE COLE JUNCTION LEVEE DISTRICT. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey, a permanent levee easement over, on and under property owned by the state of Missouri located at the Church Farm in Cole County, Missouri to the Cole Junction Levee District. The easement to be conveyed is more particularly described as follows:

All that part of Grantors property that lies within a 200 foot wide strip of land as it crosses part of the Southeast Quarter of Section 18 in Township 45 North, Range 12 West, all in Cole County, Missouri, and said strip of land lies 100 feet each side of and adjacent to the following described centerline:

From the southeast corner of said Section 18, Township 45 North, Range 12 West; thence N2°45'29"E, along the Section Line, 716.03 feet to the centerline of an unrecorded 200 foot wide easement to The Cole Junction Levee District, dated May 3, 1995 and the POINT OF BEGINNING for this centerline description; thence N50°30'04"W, along the centerline of said unrecorded easement and along the center of the existing levee, 1043.02 feet; thence S68°35'49"W, 1091.24 feet; thence S74°30'43"W, 461.55 feet; thence S12°20'42"W, 480.39 feet to the centerline of the 100 foot wide Missouri Pacific Railroad right-of-way and the Point of Termination.

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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 20. PERMANENT PIPELINE EASEMENT ON MOBERLY CORRECTIONAL CENTER PROPERTY IN RANDOLPH COUNTY TO BE CONVEYED TO THE PANHANDLE EASTERN PIPELINE COMPANY. — 1. The governor is hereby authorized and empowered to sell,

transfer, grant, and convey, a permanent pipeline easement over, on and under property owned by the state of Missouri located at the Moberly Correctional Center in Randolph County, Missouri to the Panhandle Eastern Pipeline Company, LP a Delaware Limited Partnership. The easement to be conveyed is more particularly described as follows:

DESCRIPTION OF 8" MOBERLY PIPELINE — SECTION 25

A tract of land fifty (50) feet in width, being twenty five (25) feet Northerly and twenty five (25) feet Southerly of the following described line of survey. All located in the Northwest Quarter (NW 1/4) of Section 25, Township 53 North, Range 14 West, Randolph County, Missouri. Commencing at the Northwest corner of said Section 25, a aluminum cap LS1803, thence South 09 degrees, 08 minutes, 08 seconds East, a distance of 363.27 feet to the Point of Beginning. Thence North 88 degrees 05 minutes 07 seconds West, a distance of 67.24 feet to the West line of said Section 25 and the Point of Terminus, from which the said Northwest corner of said Section 25, bears North 01 degrees 31 minutes, 52 seconds East, a distance of 356.54 feet. Said tract of land contains 4.08 linear rods, more or less.

DESCRIPTION OF 4" CONNECTION — SECTION 25 & 26

A tract of land fifty (50) feet in width, being twenty five (25) feet Northerly and twenty five (25) feet Southerly of the following described line of survey. All located in the Northeast Quarter (NE 1/4) of Section 26 and the Northwest Quarter (NW 1/4) of Section 25, Township 53 North, Range 14 West, Randolph County, Missouri.

Commencing at the Northeast corner of said Section 26, a aluminum cap LS1803, thence South 06 degrees 33 minutes 48 seconds West , a distance of 1710.22 feet to the Point of Beginning. Thence North 89 degrees 04 minutes 19 seconds East, a distance of 150.16 feet to a point on the East line of said Section 26, the West line of Section 25 and the center of 6 Mile Lane. Thence North 89 degrees 04 minutes 19 seconds East, a distance of 73.98 feet to the Point of Terminus from which the Northwest corner of said Section 25, bears North 00 degrees, 58 minutes 02 seconds West, a distance of 1695.62 feet. Said tract of land contains 9.10 linear rods in Section 26 and 4.48 linear rods in Section 25, more or less.

DESCRIPTION OF 8" MOBERLY PIPELINE — SECTION 26

A tract of land fifty (50) feet in width, being twenty five (25) feet Easterly and twenty five (25) feet Westerly of the following described line of survey. All located in the Northeast Quarter (NE 1/4) of Section 26, Township 53 North, Range 14 West, Randolph County, Missouri.

Commencing at the Northeast corner of said Section 26, a aluminum cap LS 1803, thence South 07 degrees 50 minutes 50 seconds West, a distance of 1363.00 feet to the Point of Beginning. Thence South 01 degrees 31 minutes 56 seconds West, a distance of 1323.75 feet to the Point of Terminus from which the said Northeast corner of said Section 26, bears North 04 degrees 44 minutes 13 seconds East, a distance of 2682.67 feet. Said tract of land contains 80.23 linear rods, more or less.

Additional temporary workspace shall be fifty (50) feet in width with additional fifty (50) feet at road crossings for construction, replacement and removal purposes.

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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 21. CONVEYANCE OF SOUTH EAST MISSOURI MENTAL HEALTH CENTER PROPERTY IN FARMINGTON TO THE MISSOURI HIGHWAY AND TRANSPORTATION COMMISSION. — 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 property located at the South East Missouri Mental Health Center located in Farmington, St. Francois County to the Missouri Highways and Transportation Commission, described as follows:

A tract of land lying and being situated in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri being more particularly described as follows:

Commence at a found No. 5 rebar marking the Northwest corner of Lot 62 of said F.W. Rohland Subdivision; thence S36 deg. 46 min. 52 sec. W a distance of 1905.27 feet to a Point, 55.00 feet right of Route 221 centerline station 796+00.00, said point being located on the existing Southerly MHTC (Missouri Highways and Transportation Commission) Boundary line of Route 221 and being the Point of Beginning; thence departing from said MHTC Boundary line; thence S 40 deg. 14 min. 38 sec. W a distance of 304.18 feet to a set Point, 185.00 feet right of Route 221 centerline station 793+25.00; thence S 33 deg. 16 min. 10 sec. W a distance of 224.72 feet to a set Point, 305.00 feet right of Route 221 centerline station 791+35.00; thence S 56 deg. 11 min. 56 sec. W a distance of 86.14 feet to a set Point, 318.99 feet right of Route 221 centerline station 790+50.00; thence N 12 deg. 19 min. 44 sec. E a distance of 225.83 feet to a found Steel MHTC Boundary Marker, 138.13 feet right of Route 221 centerline station 791+85.22; thence N 40 deg. 49 min. 53 sec. E a distance of 127.55 feet to a found Steel MHTC Boundary Marker, 84.80 feet right of Route 221 centerline station 793+01.09; thence N 59 deg. 51 min. 09 sec. E a distance of 300.39 feet to the Point of Beginning, containing 0.95 acres, more or less.

Also, all abutters' rights of direct access between the highway now known as State Rte. 67 and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri.

Also, all abutters' rights of direct access between the exit ramp now known as Ramp 3 and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri. Said Ramp 3 being an exit ramp connecting the northbound lane of the highway now known as State Rte 67 to the highway now designated State Rte. 221, formerly known as State Rte. W.

Also, all abutters' rights of direct access between the highway now designated State Rte. 221, formerly known as State Rte. W and grantor's abutting land in

part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri.

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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 22. CORRECTED CONVEYANCE LANGUAGE FOR A 2009 CONVEYANCE AUTHORIZATION FOR SOUTH EAST MISSOURI MENTAL HEALTH CENTER PROPERTY IN FARMINGTON. — 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 property located at the South East Missouri Mental Health Center located in Farmington, St. Francois County, which was previously authorized by the 95th General Assembly, Second Regular Session in House Bill 2285 in 2010 but contained an error in the legal description and is now corrected and described as follows:

A tract of land situated in the city of Farmington, County of St. Francois and the State of Missouri, lying in part of Lots 76, 77 and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441 of the Land records of St. Francois County, Missouri, described as follows:

Commencing at a found No. 5 rebar marking the Northwest corner of Lot 62 of said F.W. Rohland Subdivision, thence South 36°46'10" West 1905.10' to a found right-of-way marker on the South right-of-way of Columbia Street (Missouri Highway 221) and the Northwest corner of the United States Army Reserve Center, the POINT OF BEGINNING of the tract herein described: thence along the West line of said Army Reserve Center South 24°38'52" East 498.03' to a found No. 5 rebar marking the Southwest corner of said Army Reserve Center; thence South 16°01'44" West 238.03' to a point; thence South 25°42'29" West 2024.68' to a point; thence North 81°56'11" West 30.03' to a point on the East right-of-way of U.S. Highway 67; thence along said East right-of-way of said Highway 67 North 03°47'30" East 36.31' to a point; thence continuing along said East right-of-way North 14°42'22" East 131.51' to a point; thence continuing along said East right-of-way North 03°26'38" West 201.66' to a found right-of-way marker; then continuing along said East right-of-way North 03°45'45" East 952.18' to a point; thence continuing along said East right-of-way North 12°19'49" East 961.53' to a found right-of-way marker on the East right-of-way of U.S. Highway 67 and the South right-of-way of Columbia Street (Missouri Highway 221); thence along said South right-of-way North 40°51'00" East 127.36' to a found right-of-way marker; thence continuing along said South right-of-North 59°52'29" East 300.57' to the point of beginning. Containing 23.96 acres, more or less. Being part of Deed Book 343 at Page 441 and excluding the following 0.95 acres more or less to be conveyed to the Missouri Highways and Transportation Commission and described as follows:

A tract of land lying and being situated in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri being more particularly described as follows:

Commence at a found No. 5 rebar marking the Northwest corner of Lot 62 of said F.W. Rohland Subdivision; thence S36 deg. 46 min. 52 sec. W a distance of 1905.27 feet to a Point, 55.00 feet right of Route 221 centerline station 796+00.00, said point being located on the existing Southerly MHTC (Missouri Highways and Transportation Commission) Boundary line of Route 221 and being the Point of Beginning; thence departing from said MHTC Boundary line; thence S 40 deg. 14 min. 38 sec. W a distance of 304.18 feet to a set Point, 185.00 feet right of Route 221 centerline station 793+25.00; thence S 33 deg. 16 min. 10 sec. W a distance of 224.72 feet to a set Point, 305.00 feet right of Route 221 centerline station 791+35.00; thence S 56 deg. 11 min. 56 sec. W a distance of 86.14 feet to a set Point, 318.99 feet right of Route 221 centerline station 790+50.00; thence N 12 deg. 19 min. 44 sec. E a distance of 225.83 feet to a found Steel MHTC Boundary Marker, 138.13 feet right of Route 221 centerline station 791+85.22; thence N 40 deg. 49 min. 53 sec. E a distance of 127.55 feet to a found Steel MHTC Boundary Marker, 84.80 feet right of Route 221 centerline station 793+01.09; thence N 59 deg. 51 min. 09 sec. E a distance of 300.39 feet to the Point of Beginning, containing 0.95 acres, more or less.

Also, all abutters' rights of direct access between the highway now known as State Rte. 67 and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri.

Also, all abutters' rights of direct access between the exit ramp now known as Ramp 3 and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri. Said Ramp 3 being an exit ramp connecting the northbound lane of the highway now known as State Rte 67 to the highway now designated State Rte. 221, formerly known as State Rte. W.

Also, all abutters' rights of direct access between the highway now designated State Rte. 221, formerly known as State Rte. W and grantor's abutting land in part of Lots 76, 77, and 80 of F.W. Rohland Subdivision of United States Survey 2969, a Subdivision filed for record in Deed Book F at Page 441, Township 35 North, Range 5 East of the Fifth Principal Meridian, City of Farmington, County of St. Francois, State of Missouri.

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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 23. CONVEYANCE OF NATIONAL GUARD PROPERTY IN CENTERTOWN. — 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 property located at the National Guard site located in Centertown, Cole County, Missouri, described as follows:

Lots Nos. 2, 3 and 4, in Block No. 1, in Flessa's Addition to the town of Centertown, Missouri;
ALSO: Lots Nos. 1, 2, 3 and 4, in Block No. 4, in Flessa's Addition to the town of Centertown, Missouri;

ALSO: The northwest corner of the Northeast quarter of the Southwest quarter of Section 25, Township 45, Range 14, more particularly described as follows: Beginning at the northwest corner of the aforesaid forty; thence south 225 feet, to the south line of Locust Street in the town of Centertown, Missouri; thence east 310 feet; thence north 225 feet, to the north line of the aforesaid forty; thence west 310 feet, to the point of beginning.

ALSO: The southwest corner of the Southeast quarter of the Northwest quarter of Section 25, Township 45, Range 14, more particularly described as follows: Beginning at the southwest corner of the aforesaid forty; thence east 310 feet; thence north 339 feet; thence west 310 feet, to the west line of the aforesaid forty; thence south 339 feet, to the point of beginning.

All in Cole County, Missouri.

Subject to easements and restrictions of record, if any.

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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 24. PERMANENT DRAINAGE EASEMENT ON CERTAIN STATE PROPERTY IN JOPLIN. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey a permanent drainage easement over, on and under property owned by the state of Missouri located at the Department of Mental Health Regional Office and the Department of Elementary and Secondary Education State School for the Severely Disabled located in Joplin, Jasper County Missouri, described as follows, to-wit:

A tract of land in the S.E. Quarter Of Section 31 Township 28 Range 32 West in the City of Joplin, Jasper County, Missouri, and being a part of the lands of the State of Missouri described in Book 1185 Page 2082 of the Jasper County Land Records;

Commencing at a 1/2" rebar survey monument with Anderson Engineering's survey cap found thereon; Said monument being on the Southern boundary line of College Skyline Addition, a Subdivision in the City of Joplin; Said monument also being 800.00' E. of the N.W. corner of the S.W. Quarter of the S.E. Quarter of said Section; Said monument also being the N.E. corner of the aforesaid lands of the State of Missouri described in Book 1185 Page 2082 of the Jasper County Land Records;

THENCE: Bearing N.89°07'45"W. 326.74' along the Southern boundary line of College Skyline Addition to a point;

Said point being the POINT OF BEGINNING;

COURSE 1: Thence departing said Southern boundary line along a curve to the left as follows: arc length 76.25', arc radius 80.00', chord bearing S.24°56'55"E., chord distance 73.39' to a point;
COURSE 2: Thence Bearing S.52°15'09"E. 347.20' to a point;
COURSE 3: Thence along a curve to the right as follows: arc length 17.24', arc radius 120.00', chord bearing S.48°08'16"E., chord distance 17.22' to a point on the Western boundary line of the lands of Missouri Southern State University;
COURSE 4: Thence continuing along said Western boundary line of the lands of said University, bearing S.01°40'52"W. 93.52' to a point;
COURSE 5: Thence departing said Western boundary line, bearing N.37°37'59"W. 59.00' to a point;
COURSE 6: Thence along a curve to the left as follows: arc length 15.31', arc radius 60.00', chord bearing N.44°56'34"W., chord distance 15.27' to a point;
COURSE 7: Thence bearing N.52°15'09"W. 347.20' to a point;
COURSE 8: Thence along a curve to the right as follows: arc length 131.88', arc radius 140.00', chord bearing N.25°16'00"W., chord distance 127.06' to a point on the Southern boundary line of College Skyline Addition;
COURSE 9: Thence bearing S.89°07'45"E. 60.01' along said Southern boundary line to a point; Said point being the POINT OF BEGINNING; Containing 0.4727 acres, more-or-less, or 20,593 square feet.

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 not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to generate revenue from the sale of state property, 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 14, 2011

HB 142 [CCS SCS HB 142]

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 political subdivisions

AN ACT to repeal sections 55.030, 67.1521, 90.101, 475.115, and 479.011, RSMo, and to enact in lieu thereof seven new sections relating to political subdivisions.

SECTION

A. Enacting clause.
55.030. To prescribe accounting system — other duties (certain first class counties).
67.319. Water service lines, repair programs, municipalities and certain districts — fee imposed — ballot language — administration — fee added to general tax levy bill, when.
67.451. Ordinance enforcement, special tax bills for recovery of costs.
67.1521. Special assessments, petition, funds, how collected — added to annual real estate bill, Boone County.
90.101. Numbers of commissioners — vacancy in board of commissioners, how filled.
475.115. Appointment of successor guardian or conservator — transfer of case, procedure.

479.011. Administrative adjudication of certain code violations, certain cities — authorization, rules requirements — tribunal designated by ordinance, procedures — evidence reviewed — imprisonment and fines limited — judicial review, lien imposed, when.

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

SECTION A. ENACTING CLAUSE. — Sections 55.030, 67.1521, 90.101, 475.115, and 479.011, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 55.030, 67.319, 67.451, 67.1521, 90.101, 475.115, and 479.011, to read as follows:

55.030. TO PRESCRIBE ACCOUNTING SYSTEM — OTHER DUTIES (CERTAIN FIRST CLASS COUNTIES). — The county auditor of a county **[**of the first class**]** having a charter form of government shall prescribe, with the approval of the governing body of the county and the state auditor, the accounting system of the county. He shall keep accounts of all appropriations and expenditures made by the governing body of the county; and no warrant shall be drawn or obligation incurred without his certification that an unencumbered balance, sufficient to pay the same, remains in the appropriation account against which such warrant or obligation is to be charged. He shall audit and examine all accounts, demands, and claims of every kind and character presented for payment against such county, and shall approve to the governing body of the county all lawful, true, and just accounts, demands, and claims of every kind and character payable out of the county revenue or out of any county funds before the same shall be allowed and a warrant issued therefor. Whenever the county auditor deems it necessary to the proper examination of any account, demand, or claim, he may examine the parties, witnesses, and others on oath or affirmation touching any matter or circumstance in the examination of such account, demand, or claim. At the direction of the governing body of the county, he shall audit the accounts of all officers and employees of the county and upon their retirement from office and shall keep a correct account between the county and all county officers; and he shall examine all records and settlements made by them for and with the governing body of the county or with each other; and the county auditor shall, at all reasonable times, have access to all books, county records, or papers kept by any county or township officer, employee, or road overseer. He may keep an inventory of all county property under the control and management of the various officers and departments and shall annually take an inventory of any such property at an original value of **[**two hundred fifty**]** **one thousand** dollars or more showing the amount, location and estimated value thereof. He shall perform such other duties in relation to the fiscal administration of the county as the governing body of the county shall from time to time prescribe. The county auditor shall not be personally liable for any costs for any proceeding instituted against him in his official capacity.

67.319. WATER SERVICE LINES, REPAIR PROGRAMS, MUNICIPALITIES AND CERTAIN DISTRICTS — FEE IMPOSED — BALLOT LANGUAGE — ADMINISTRATION — FEE ADDED TO GENERAL TAX LEVY BILL, WHEN. — 1. If approved by a majority of the voters voting on the proposal, any city, town, village, sewer district, or water supply district located within this state may, by ordinance, levy and impose annually, upon water service lines providing water service to residential property having four or fewer dwelling units within the jurisdiction of such city, town, village, sewer district, or water supply district a fee not to exceed one dollar per month or twelve dollars annually.

2. The ballot of submission shall be in substantially the following form:

For the purpose of repair or replacement of water lines extending from the water main to a residential dwelling due to failure of the line, shall ..... (city, town, village, sewer district, or water supply district) be authorized to impose a fee not to exceed one dollar per month or twelve dollars annually on residential property for each water service line providing water service within the (city, town, village, sewer district, or water supply

district) to residential property having four or fewer dwelling units for the purpose of paying for the costs of necessary water service line repairs or replacements?

[ ] YES [ ] NO

3. For the purpose of this section, a water service line may be defined by local ordinance, but may not include the water meter or exceed that portion of water piping and related valves and connectors which extends from the water mains owned by the utility or municipality distributing public water supply to the first opportunity for a connection or joint beyond the point of entry into the premises receiving water service, and may not include facilities owned by the utility or municipality distributing public water supply. For purposes of this section, repair may be defined and limited by local ordinance, and may include replacement or repairs.

4. If a majority of the voters voting thereon approve the proposal authorized in subsection 1 of this section, the governing body of the city, town, village, sewer district, or water supply district may enact an ordinance for the collection of such fee. The funds collected under such ordinance shall be deposited in a special account to be used solely for the purpose of paying for the reasonable costs associated with and necessary to administer and carry out the water service line repairs as defined in the ordinance and to reimburse the necessary costs of water service line repair or replacement. All interest generated on deposited funds shall be accrued to the special account established for the repair of water service lines.

5. The city, town, village, sewer district, or water supply district may establish, as provided in the ordinance, regulations necessary for the administration of collections, claims, repairs, replacements and all other activities necessary and convenient for the implementation of any ordinance adopted and approved under this section. The city, town, village, sewer district, or water supply district may administer the program or may contract with one or more persons, through a competitive process, to provide for administration of any portion of implementation activities of any ordinance adopted and approved under this section, and reasonable costs of administering the program may be paid from the special account established under this section.

6. Notwithstanding any other provision of law to the contrary, the collector in any city, town, village, sewer district, or water supply district or county that adopts an ordinance under this section, who now or hereafter collects any fee to provide for, ensure or guarantee the repair of water service lines, may add such fee to the general tax levy bills of property owners within the city, town, village, sewer district, or water supply district or unincorporated area of the county. All revenues received on such combined bill which are for the purpose of providing for, ensuring or guaranteeing the repair of water service lines, shall be separated from all other revenues so collected and credited to the appropriate fund or account of the city, town, village, sewer district, or water supply district or county. The collector of the city, town, village, sewer district, or water supply district or county may collect such fee in the same manner and to the same extent as the collector now or hereafter may collect delinquent real estate taxes and tax bills.

67.451. ORDINANCE ENFORCEMENT, SPECIAL TAX BILLS FOR RECOVERY OF COSTS. — Any city in which voters have approved fees to recover costs associated with enforcement of municipal housing, property maintenance, or nuisance ordinances may issue a special tax bill against the property where such ordinance violations existed. The officer in charge of finance shall cause the amount of unrecovered costs to be included in a special tax bill or added to the annual real estate tax bill for the property at the collecting official's option, and the costs shall be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by laws governing delinquent and back taxes. The tax bill shall be deemed a

personal debt against the owner from the date of issuance, and shall also be a lien on the property until paid. Notwithstanding any provision of the city's charter to the contrary, the city may provide, by ordinance, that the city may discharge the special tax bill upon a determination by the city that a public benefit will be gained by such discharge, and such discharge shall include any costs of tax collection, accrued interest, or attorney fees related to the special tax bill.

67.1521. SPECIAL ASSESSMENTS, PETITION, FUNDS, HOW COLLECTED — ADDED TO ANNUAL REAL ESTATE BILL, BOONE COUNTY. — 1. A district may levy by resolution one or more special assessments against real property within its boundaries, upon receipt of and in accordance with a petition signed by:

(1) Owners of real property collectively owning more than fifty percent by assessed value of real property within the boundaries of the district; and

(2) More than fifty percent per capita of the owners of all real property within the boundaries of the district.

2. The special assessment petition shall be in substantially the following form:

The ..... (insert name of district) Community Improvement District ("District") shall be authorized to levy special assessments against real property benefited within the District for the purpose of providing revenue for ..... (insert general description of specific service and/or projects) in the district, such special assessments to be levied against each tract, lot or parcel of real property listed below within the district which receives special benefit as a result of such service and/or projects, the cost of which shall be allocated among this property by ..... (insert method of allocation, e.g., per square foot of property, per square foot on each square foot of improvement, or by abutting foot of property abutting streets, roads, highways, parks or other improvements, or any other reasonable method) in an amount not to exceed ..... dollars per (insert unit of measure). Such authorization to levy the special assessment shall expire on ..... (insert date). The tracts of land located in the district which will receive special benefit from this service and/or projects are: ..... (list of properties by common addresses and legal descriptions).

3. The method for allocating such special assessments set forth in the petition may be any reasonable method which results in imposing assessments upon real property benefited in relation to the benefit conferred upon each respective tract, lot or parcel of real property and the cost to provide such benefit.

4. By resolution of the board, the district may levy a special assessment rate lower than the rate ceiling set forth in the petition authorizing the special assessment and may increase such lowered special assessment rate to a level not exceeding the special assessment rate ceiling set forth in the petition without further approval of the real property owners; provided that a district imposing a special assessment pursuant to this section may not repeal or amend such special assessment or lower the rate of such special assessment if such repeal, amendment or lower rate will impair the district's ability to pay any liabilities that it has incurred, money that it has borrowed or obligations that it has issued.

5. Each special assessment which is due and owing shall constitute a perpetual lien against each tract, lot or parcel of property from which it is derived. Such lien may be foreclosed in the same manner as any other special assessment lien as provided in section 88.861. **Notwithstanding the provisions of this subsection and section 67.1541 to the contrary, in 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, the county collector may, upon certification by the district for collection, add each special assessment to the annual real estate tax bill for the property and collect the assessment in the same manner the collector uses for real estate taxes. In said counties, each special assessment remaining unpaid on the first day of January annually is delinquent and enforcement of collection of the delinquent bill by the county collector shall be governed**

by the laws concerning delinquent and back taxes. The lien may be foreclosed in the same manner as a tax upon real property by land tax sale under chapter 140 or, if applicable to that county, chapter 141.

6. A separate fund or account shall be created by the district for each special assessment levied and each fund or account shall be identifiable by a suitable title. The proceeds of such assessments shall be credited to such fund or account. Such fund or account shall be used solely to pay the costs incurred in undertaking the specified service or project.

7. Upon completion of the specified service or project or both, the balance remaining in the fund or account established for such specified service or project or both shall be returned or credited against the amount of the original assessment of each parcel of property pro rata based on the method of assessment of such special assessment.

8. Any funds in a fund or account created pursuant to this section which are not needed for current expenditures may be invested by the board in accordance with applicable laws relating to the investment of funds of the city in which the district is located.

9. The authority of the district to levy special assessments shall be independent of the limitations and authorities of the municipality in which it is located; specifically, the provisions of section 88.812 shall not apply to any district.

90.101. NUMBERS OF COMMISSIONERS — VACANCY IN BOARD OF COMMISSIONERS, HOW FILLED. — 1. Notwithstanding any law to the contrary, the board of commissioners of Tower Grove Park shall have the authority to adjust the size of its membership, provided that any such adjustment shall be approved by a majority vote of the board members.

2. Notwithstanding any law to the contrary, in case of any vacancy occurring in the membership of the board of commissioners of Tower Grove Park from death, resignation, or disqualification to act, the vacancy shall be filled by appointment from the remaining members of the board, or a majority of them, for the balance of the term then vacant, and all vacancies caused by the expiration of the term of office shall be filled by appointment from the judges of the supreme court of the state of Missouri, or a majority of them or if said judges are unable or unwilling to so act, which shall be presumed by their failure to act within thirty days following delivery to the court of a slate of appointees, by the majority vote of the remaining board members.

475.115. APPOINTMENT OF SUCCESSOR GUARDIAN OR CONSERVATOR — TRANSFER OF CASE, PROCEDURE. — 1. When a guardian or conservator dies, is removed by order of the court, or resigns and his **or her** resignation is accepted by the court, the court shall have the same authority as it has in like cases over personal representatives and their sureties and may appoint another guardian or conservator in the same manner and subject to the same requirements as are herein provided for an original appointment of a guardian or conservator.

2. A public administrator may request transfer of any case to the jurisdiction of another county by filing a petition for transfer. If the receiving county meets the venue requirements of section 475.035 and the public administrator of the receiving county consents to the transfer, the court shall transfer the case. The court with jurisdiction over the receiving county shall, without the necessity of any hearing as required by section 475.075, appoint the public administrator of the receiving county as successor guardian and/or successor conservator and issue letters therein. In the case of a conservatorship, the final settlement of the public administrator's conservatorship shall be filed within thirty days of the court's transfer of the case, in the court with jurisdiction over the original conservatorship, and forwarded to the receiving county upon audit and approval.

479.011. ADMINISTRATIVE ADJUDICATION OF CERTAIN CODE VIOLATIONS, CERTAIN CITIES — AUTHORIZATION, RULES REQUIREMENTS — TRIBUNAL DESIGNATED BY

ORDINANCE, PROCEDURES — EVIDENCE REVIEWED — IMPRISONMENT AND FINES LIMITED — JUDICIAL REVIEW, LIEN IMPOSED, WHEN. — 1. **(1) The following cities may establish an administrative adjudication system under this section:**

(a) Any city not within a county **[**or**] ;**

(b) Any home rule city with more than four hundred thousand inhabitants and located in more than one county**; and**

(c) Any home rule city with more than seventy-three thousand but fewer than seventy-five thousand inhabitants.

(2) The cities listed in subdivision (1) of this subsection may establish, by order or ordinance, an administrative system for adjudicating **housing, property maintenance, nuisance,** 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 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 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, 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. **The city may also issue a special tax bill to collect fines issued for housing, property maintenance, and nuisance code violations.**

Approved July 8, 2011

HB 149 [SCS HB 149]

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 and termination dates for the provisions which allow an individual or corporation to designate part of a tax refund to the Missouri Military Family Relief Fund

AN ACT to repeal section 143.1004, RSMo, and to enact in lieu thereof one new section relating to the Missouri military family relief fund.

SECTION

A. Enacting clause.
143.1004. Tax refund may be designated to the Missouri military family relief fund.

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

SECTION A. ENACTING CLAUSE. — Section 143.1004, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.1004, to read as follows:

143.1004. TAX REFUND MAY BE DESIGNATED TO THE MISSOURI MILITARY FAMILY RELIEF FUND. — 1. In each taxable year beginning on or after January 1, 2005, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the Missouri military family relief fund. 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 Missouri military family relief fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the Missouri military family relief fund, the individual or corporation wishes to contribute. The department of revenue shall deposit such amount to the Missouri military family relief fund as provided in subsection 2 of this section.

2. The director of revenue shall deposit at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the Missouri military family relief fund. The fund shall be administered by a sergeant major of the Missouri national guard, a sergeant major of a reserve component or its equivalent, and a representative of the Missouri veterans commission.

3. The director of revenue shall deposit at least monthly all contributions designated by the corporations under this section, less an amount sufficient to cover the cost of collection, handling, and administration by the department of revenue during fiscal year 2006, to the Missouri military family relief fund, not to exceed seventy thousand dollars.

4. A contribution designated under this section shall only be deposited in the Missouri military family relief fund after all other claims against the refund from which such contribution is to be made have been satisfied.

5. Moneys deposited in the Missouri military family relief fund shall be distributed by the adjutant general in accordance with the provisions of sections 41.216 and 41.218.

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 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2005, 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 14, 2011

HB 151 [HB 151]

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 individual or corporation to designate all or a portion of his or her income tax refund to the Organ Donor Program or to send a separate check with the payment of his or her taxes

AN ACT to amend chapter 143, RSMo, by adding thereto one new section relating to donations to the organ donor program fund.

SECTION

A. Enacting clause.
143.1016. Organ Donor Program fund, designation of refund permitted — director's duties — sunset provision.

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

SECTION A. ENACTING CLAUSE. — Chapter 143, RSMo, is amended by adding thereto one new section, to be known as section 143.1016, to read as follows:

143.1016. ORGAN DONOR PROGRAM FUND, DESIGNATION OF REFUND PERMITTED — DIRECTOR'S DUTIES — SUNSET PROVISION. — 1. For all tax years beginning on or after January 1, 2011, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that two dollars or any amount in excess of two dollars on a single return, and four dollars or any amount in excess of four dollars on a combined return, of the refund due be credited to the organ donor program fund established in section 194.297. The contribution designation authorized by this section shall be clearly and unambiguously printed on each income tax return form provided by this state. If any individual 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 organ donor program fund, such individual may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, clearly designated for the organ donor program fund, the amount the individual wishes to contribute. The department of revenue shall deposit such amount to the organ donor program fund as provided in subsection 2 of this section.

2. The director of revenue shall transfer at least monthly all contributions designated by individuals under this section, less an amount sufficient to cover the cost of collecting and handling by the department of revenue which shall not exceed five percent of the transferred contributions, to the state treasurer for deposit in the state treasury to the credit of the organ donor program fund. A contribution designated under this section

shall only be transferred and deposited in the organ donor program fund after all other claims against the refund from which such contribution is to be made have been satisfied.

3. All moneys transferred to the fund shall be distributed as provided in this section and sections 194.297 and 194.299.

4. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December thirty-first 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 on December thirty-first 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 July 11, 2011

HB 161 [SS SCS HCS HB 161]

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 certain taxes imposed by political subdivisions

AN ACT to repeal sections 67.1000, 67.1002, 67.1003, 67.1005, 67.1006, 67.1303, 67.1956, 94.900, and 181.060, RSMo, and to enact in lieu thereof nine new sections relating to certain taxes imposed by local governments.

SECTION

A. Enacting clause.
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 — limitation on tax, certain cities and counties.
67.1002. Ballot form — tax to be effective when — collection of tax, options — penalty on unpaid taxes — delinquent when, any county and certain cities.
67.1003. Transient guest tax on hotels and motels in counties and cities meeting a room requirement or a population requirement, amount, issue submitted to voters, ballot language.
67.1006. Transient guests to pay tax on sleeping rooms in hotels or motels — rate — election, ballot form — purpose, tourism — rate of tax change, procedure (Pettis County).
67.1303. Sales tax authorized in certain cities and counties, rate — ballot, effective date — use of revenue, limitations — deposit of funds — economic development tax board required, membership, terms — board duties — annual report — repeal.
67.1956. Board of directors, members, terms, duties.
94.900. Sales tax authorized (Blue Springs, Excelsior Springs, Harrisonville, Peculiar, St. Joseph) — proceeds to be used for public safety purposes — ballot language — collection of tax, procedure.
181.060. State aid for public libraries — appropriation, distribution, allocation, procedure — requirements.
182.802. Public libraries, sales tax authorized — ballot language — definitions (Butler, Dunklin, New Madrid, Ripley, Stoddard, and Wayne counties)
67.1005. Transient guest tax on hotels and motels in cities and counties — issue submitted to voters, ballot language.

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

SECTION A. ENACTING CLAUSE. — Sections 67.1000, 67.1002, 67.1003, 67.1005, 67.1006, 67.1303, 67.1956, 94.900, and 181.060, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 67.1000, 67.1002, 67.1003, 67.1006, 67.1303, 67.1956, 94.900, 181.060, and 182.802, to read as follows:

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 — LIMITATION ON TAX, CERTAIN CITIES AND COUNTIES. — 1. The governing body of **the following cities and counties may impose a tax as provided in this section;**

(1) Any county **[**or of**] ;**

(2) 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**] ;**

(3) Any city or county with more than three hundred fifty hotel and motel rooms within the boundaries of such city or county;

(4) 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**[**,**] .**

2. The governing body of any city or county listed in subsection 1 of this section 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 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.**] 3. As used in this section and section 67.1002, the term "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, except that** 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.

[3.**] 4.** Provisions of this section to the contrary notwithstanding, the governing body of any home rule city with more than thirty-nine thousand six hundred but fewer than thirty-nine thousand seven hundred inhabitants and partially located in any county of the first classification with more than seventy-one thousand three hundred but fewer than seventy-one 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, which shall be not more than seven percent per occupied room per night, except that such tax shall not become effective unless the governing body of such city submits to the voters of the city at an election permitted under section 115.123 a proposal to authorize the governing body of the city to impose a tax under the provisions of this **[**section**] subsection** and section 67.1002. The tax authorized by this **[**section**] subsection** 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 solely for funding a convention and visitors bureau which shall be a general not-for-profit organization with whom the city has contracted, and which is established for the purpose of promoting the city as a convention, visitor, and tourist center. Such tax shall be stated separately from all other charges and taxes.

5. Notwithstanding any other provision of law to the contrary, the tax authorized in this section shall not be imposed by the following cities or counties:

(1) Any city or county already imposing a tax solely on the charges for sleeping rooms paid by the transient guests of hotels or motels situated in any such city or county under any other law of this state;

(2) Any city not already imposing a tax under this section and that is located in whole or partially within a county that already imposes a tax solely on the charges for sleeping rooms paid by the transient guests of hotels or motels situated in such county under this section or any other law of this state; or

(3) Any county not already imposing a tax under this section and that has a city located in whole or in part within its boundaries that already imposes a tax solely on the charges for sleeping rooms paid by the transient guests of hotels or motels situated in such city under this section or any other law of this state.

6. This section shall not be construed as repealing any taxes levied by any city or county on transient guests as permitted under this chapter or chapter 94 as of August 28, 2011.

67.1002. BALLOT FORM — TAX TO BE EFFECTIVE WHEN — COLLECTION OF TAX, OPTIONS — PENALTY ON UNPAID TAXES — DELINQUENT WHEN, ANY COUNTY AND CERTAIN CITIES. — 1. The question shall be submitted in substantially the following form:

Shall the ..... (City or County) levy a tax of ..... percent on each sleeping room occupied and rented by transient guests of hotels and motels located in the city or county, where the proceeds of which shall be expended for promotion of tourism **or funding a convention and visitors bureau**?

[ ] YES [ ] NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the governing body for the city or county shall have no power to impose the tax authorized by this section unless and until the governing body of the city or county again submits the question to the qualified voters of the city or county and such question is approved by a majority of the qualified voters voting on the question.

2. On and after the effective date of any tax authorized under the provisions of this section and section 67.1000, the city or county which levied the tax may adopt one of the two following provisions for the collection and administration of the tax:

(1) The city or county which levied the tax may adopt rules and regulations for the internal collection of such tax by the city or county officers usually responsible for collection and administration of city or county taxes; or

(2) The city or county may enter into an agreement with the director of revenue of the state of Missouri for the purpose of collecting the tax authorized in this section and section 67.1000. In the event any city or county enters into an agreement with the director of revenue of the state of Missouri for the collection of the tax authorized in this section and section 67.1000, the director of revenue shall perform all functions incident to the administration, collection, enforcement and operation of such tax, and the director of revenue shall collect the additional tax authorized under the provisions of this section and section 67.1000. The tax authorized under the provisions of this section and section 67.1000 shall be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue, and the director of revenue shall retain not less than one percent nor more than three percent for cost of collection.

3. If a tax is imposed by a city or county under this section and section 67.1000, the city or county may collect a penalty of one percent and interest not to exceed two percent per month on unpaid taxes which shall be considered delinquent thirty days after the last day of each quarter.

67.1003. TRANSIENT GUEST TAX ON HOTELS AND MOTELS IN COUNTIES AND CITIES MEETING A ROOM REQUIREMENT OR A POPULATION REQUIREMENT, AMOUNT, ISSUE SUBMITTED TO VOTERS, BALLOT LANGUAGE. — 1. The governing body of the following cities and counties may impose a tax as provided in this section:

(1) Any city or county**[**, other than a city or county already imposing a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof pursuant to any other law of this state,**]** having more than three hundred fifty hotel and motel rooms inside such city or county;

(2) A county of the third classification with a population of more than seven thousand but less than seven thousand four hundred inhabitants;

(3) A third class city with a population of greater than ten thousand but less than eleven thousand located in a county of the third classification with a township form of government with a population of more than thirty thousand;

(4) A county of the third classification with a township form of government with a population of more than twenty thousand but less than twenty-one thousand;

(5) Any third class city with a population of more than eleven thousand but less than thirteen thousand which is located in a county of the third classification with a population of more than twenty-three thousand but less than twenty-six thousand;

(6) Any city of the third classification with more than ten thousand five hundred but fewer than ten thousand six hundred inhabitants;

(7) Any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants;

(8) Any city of the third classification with more than ten thousand eight hundred but fewer than ten thousand nine hundred inhabitants and located in more than one county.

2. The governing body of any city or county listed in subsection 1 of this section may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county or a portion thereof, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election a proposal to authorize the governing body of the city or county to impose a tax pursuant to this section. The tax authorized by this section shall be in addition to the charge for the sleeping room and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

3. Notwithstanding any other provision of law to the contrary, **except as provided in subsection 5 of this section,** the tax authorized in **subsection 1 of** this section shall not be imposed **[**in any city or county already imposing such tax pursuant to any other law of this state, except that**] by the following cities or counties:**

(1) Any city or county already imposing a tax solely on the charges for sleeping rooms paid by the transient guests of hotels or motels situated in any such city or county under any other law of this state;

(2) Any city not already imposing a tax under this section and that is located in whole or partially within a county that already imposes a tax solely on the charges for sleeping rooms paid by the transient guests of hotels or motels situated in such county under this section or any other law of this state; or

(3) Any county not already imposing a tax under this section and that has a city located in whole or in part within its boundaries that already imposes a tax solely on the

charges for sleeping rooms paid by the transient guests of hotels or motels situated in such city under this section or any other law of this state.

4. Cities of the third class having more than two thousand five hundred hotel and motel rooms, and located in a county of the first classification in which and where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such county is imposed, may impose the tax authorized by this section of not more than one-half of one percent per occupied room per night.

[4.**] 5. The governing body of any city of the fourth classification with more than fifty-one thousand inhabitants located in a county with a charter form of government and with more than two hundred fifty thousand inhabitants which adjoins another county with a charter form of government and with more than one million inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guest of hotels or motels situated in such city or a portion thereof, which tax shall be not more than two percent per occupied room per night, except that such tax shall not become effective unless the governing body of such city submits, after January 1, 2012, to the voters of that city, at an election permitted under section 115.123, a proposal to authorize the governing body of the city to impose a tax under this section. The tax authorized by this section shall be in addition to any 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.**

6. The ballot of submission for **[**the**] any** tax authorized in this section shall be in substantially the following form:

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

[ ] YES [ ] NO

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

[5.**] 7.** 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.

8. This section shall not be construed as repealing any taxes levied by any city or county on transient guests as permitted under this chapter or chapter 94 as of August 28, 2011.

67.1006. TRANSIENT GUESTS TO PAY TAX ON SLEEPING ROOMS IN HOTELS OR MOTELS — RATE — ELECTION, BALLOT FORM — PURPOSE, TOURISM — RATE OF TAX CHANGE, PROCEDURE (PETTIS COUNTY). — 1. In any county of the second class which has a two-year community college and is located south of the Missouri River and adjacent to a county of the second class which contains a state educational institution described as a state teachers college in paragraph (c) of subdivision (5) of section 176.010, a proposal to authorize the governing body of the county to impose a tax may be submitted to the voters of the county at a state general, primary or special election as follows:

(1) By a majority vote of the county governing body; or

(2) Upon petition of eight percent of the voters who cast votes for the member of the county governing body who received the highest number of votes at the last election in which members of the governing body were elected, the county clerk shall submit the proposal to the voters of the county. The tax shall be levied on the sales or charges for all sleeping rooms paid

by the transient guests of hotels or motels situated in the county at a rate not to exceed two dollars per room per night. The tax authorized by sections 67.1006 to 67.1012 shall be in addition to any and all taxes imposed by law and shall be stated separately from all other charges and taxes.

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

Shall there be imposed in the county of ..... (name of county) a tax of ..... (rate of tax) on each sleeping room occupied and rented by transient guests of hotels and motels located in the county, the proceeds of which shall be expended for tourism purposes?

[ ] YES [ ] NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax authorized by sections 67.1006 to 67.1012 shall not become effective unless and until the question is resubmitted under the provisions of sections 67.1006 to 67.1012 to the qualified voters of the county and such question is approved by a majority of the qualified voters of the county voting on the question.

3. The governing body of any county imposing a tax under this section may, by order or ordinance, change the rate of such tax from two dollars per room per night to not more than five percent per occupied room per night. No such order or ordinance shall become effective unless the governing body of the county submits to the voters of the county at a state general, primary, or special election a proposal to authorize the governing body of the county to change the rate of tax imposed under this section. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the change in the tax rate 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 change in the tax rate shall not become effective unless and until the question is resubmitted under this section to the qualified voters of the county and such question is approved by a majority of the qualified voters voting on the question.

67.1303. SALES TAX AUTHORIZED IN CERTAIN CITIES AND COUNTIES, RATE — BALLOT, EFFECTIVE DATE — USE OF REVENUE, LIMITATIONS — DEPOSIT OF FUNDS — ECONOMIC DEVELOPMENT TAX BOARD REQUIRED, MEMBERSHIP, TERMS — BOARD DUTIES — ANNUAL REPORT — REPEAL. — 1. The governing body of any home rule city with more than one hundred fifty-one thousand five hundred but less than one hundred fifty-one thousand six hundred inhabitants, any home rule city with more than forty-five thousand five hundred but less than forty-five thousand nine hundred inhabitants and the governing body of any city within any county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants and the governing body of any county of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants or any city within such county may impose, by order or ordinance, a sales tax on all retail sales made in the city or county which are subject to sales tax under chapter 144. In addition, the governing body of any county of the first classification with more than eighty-five thousand nine hundred but less than eighty-six thousand inhabitants or the governing body of any home rule city with more than seventy-three thousand but less than seventy-five thousand inhabitants may impose, by order or ordinance, a sales tax on all retail sales made in the city or county which are subject to sales tax under chapter 144. The tax authorized in this section shall not be more than one-half of one percent. The order or ordinance imposing the tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary

election a proposal to authorize the governing body to impose a tax under this section. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

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 or county) impose a sales tax at a rate of ..... (insert rate of percent) percent for economic development purposes?

[ ] YES [ ] NO

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

3. No revenue generated by the tax authorized in this section shall be used for any retail development project. At least twenty percent of the revenue generated by the tax authorized in this section shall be used solely for projects directly related to long-term economic development preparation, including, but not limited to, the following:

(1) Acquisition of land;

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

(3) Improvement of water and wastewater treatment capacity;

(4) Extension of streets;

(5) Providing matching dollars for state or federal grants;

(6) Marketing;

(7) **Construction of job training and educational facilities; and**

(8) Providing grants and low-interest loans to companies for job training, equipment acquisition, site development, and infrastructure. Not more than twenty-five percent of the revenue generated may be used annually for administrative purposes, including staff and facility costs.

4. All revenue generated by the tax shall be deposited in a special trust fund and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city or county funds.

5. Any city or county imposing the tax authorized in this section shall establish an economic development tax board. The board shall consist of eleven members, to be appointed as follows:

(1) Two members shall be appointed by the school boards whose districts are included within any economic development plan or area funded by the sales tax authorized in this section. Such members shall be appointed in any manner agreed upon by the affected districts;

(2) 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 an economic development project or area funded by the sales tax authorized in this section, excluding representatives of the governing body of the city or county;

(3) One member shall be appointed by the largest public school district in the city or county;

(4) In each city or county, five members shall be appointed by the chief elected officer of the city or county with the consent of the majority of the governing body of the city or county;

(5) In each city, two members shall be appointed by the governing body of the county in which the city is located. In each county, two members shall be appointed by the governing body of the county. At the option of the members appointed by a city or county the members who are appointed by the school boards and other taxing districts may serve on the board for a term to coincide with the length of time an economic development project, plan, or designation of an economic development area is considered for approval by the board, or for the definite terms as provided in this subsection. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time an economic development 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 city or county. If any school district or other taxing jurisdiction fails to appoint members of the board within thirty days of receipt of written notice of a proposed economic development plan, economic development project, or designation of an economic development area, the remaining members may proceed to exercise the power of the board. Of the members first appointed by the city or county, three shall be designated to serve for terms of two years, three shall be designated to serve for a term of three years, and the remaining members shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the city or county 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.

6. The board, subject to approval of the governing body of the city or county, shall develop economic development plans, economic development projects, or designations of an economic development area, and shall hold public hearings and provide notice of any such hearings. The board shall vote on all proposed economic development plans, economic development projects, or designations of an economic development area, and amendments thereto, within thirty days following completion of the hearing on any such plan, project, or designation, and shall make recommendations to the governing body within ninety days of the hearing concerning the adoption of or amendment to economic development plans, economic development projects, or designations of an economic development area.

7. The board shall report at least annually to the governing body of the city or county on the use of the funds provided under this section and on the progress of any plan, project, or designation adopted under this section.

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

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

[ ] YES [ ] NO

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

9. Whenever the governing body of any city or county that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the city or county voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar

year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

67.1956. BOARD OF DIRECTORS, MEMBERS, TERMS, DUTIES. — 1. In each tourism community enhancement district established pursuant to section 67.1953, there shall be a board of directors, to consist of seven members. Three members shall be selected by the governing body of the city, town or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district. Two members shall be selected by the governing body of the city, town or village, located within the district, that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district, if such a city, town or village exists in the district. If no such city, town or village exists in the district then two additional members shall be selected by the governing body of the city, town, or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district. One member shall be selected by the governing body of the county located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district. One member shall be selected by the governing body of the county located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district.

2. Of the members first selected, the three members **[**from**] selected by** the city, town or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district shall be selected for a term of three years, the two members **[**from**] selected by** the city, town, or village located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district shall be selected for a term of two years, and the remaining members shall be selected for a term of one year. Thereafter, each member selected shall serve a three-year term. **Except in any city of the fourth classification with more than two thousand nine hundred but fewer than three thousand inhabitants and located in any county of the first classification with more than seventy-three thousand seven hundred but fewer than seventy-three thousand eight hundred inhabitants,** every member shall be either a resident of the district, own real property within the district, be employed by a business within the district, or operate a business within the district. All members shall serve without compensation. The board shall elect its own treasurer, secretary and such other officers as it deems necessary and expedient, and it may make such rules, regulations, and bylaws to carry out its duties pursuant to sections 67.1950 to 67.1977.

3. Any vacancy within the board shall be filled in the same manner as the person who vacated the position was selected within sixty days of the vacancy occurring, with the new person serving the remainder of the term of the person who vacated the position. In the event that a person is not so selected within sixty days of the vacancy occurring, the remaining members of the board shall select a person to serve the remainder of the term of the person who vacated the position.

4. If a tourism community enhancement district is already in existence on August 28, 2005, the one additional board member shall be appointed by the governing body of the city, town, or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district for a one-year term and the other additional board member shall be appointed by the governing body of the county located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district for a two-year term, thereafter all board members shall serve three-year terms. The existing board members shall serve out their terms with the provisions of this section controlling the appointment of successor board members, with first and

second **existing** board **[**existing**]** positions to expire to be appointed by the governing body of the city, town, or village located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district, the third and fourth existing board positions to expire to be appointed by the governing body of the city, town, or village located within the district that collected the second largest amount of retail sales tax within the district in the year preceding the establishment of the district and the fifth existing board position to expire to be appointed by the governing body of the county located within the district that collected the largest amount of retail sales tax within the district in the year preceding the establishment of the district.

5. The board, on behalf of the district, may:

(1) Cooperate with public agencies and with any industry or business in the implementation of any project;

(2) Enter into any agreement with any public agency, person, firm, or corporation to implement any of the provisions of sections 67.1950 to 67.1977;

(3) Contract and be contracted with, and sue and be sued; and

(4) Accept gifts, grants, loans, or contributions from the United States of America, the state, any political subdivision, foundation, other public or private agency, individual, partnership or corporation on behalf of the tourism enhancement district community.

94.900. SALES TAX AUTHORIZED (BLUE SPRINGS, EXCELSIOR SPRINGS, HARRISONVILLE, PECULIAR, ST. JOSEPH) — PROCEEDS TO BE USED FOR PUBLIC SAFETY PURPOSES — BALLOT LANGUAGE — COLLECTION OF TAX, PROCEDURE. — 1. **(1)** The governing body of **the following cities may impose a tax as provided in this section:**

(a) Any city of the third classification with more than ten thousand eight hundred but less than ten thousand nine hundred inhabitants located at least partly within a county of the first classification with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants**[**, or**] ;**

(b) Any city of the fourth classification with more than eight thousand nine hundred but fewer than nine thousand inhabitants**[**, or**] ;**

(c) Any city of the fourth classification with more than two thousand six hundred but fewer than two thousand seven hundred inhabitants and located in any county of the first classification with more than eighty-two thousand but fewer than eighty-two thousand one hundred inhabitants**[**, or**] ;**

(d) Any home rule city with more than forty-eight thousand but fewer than forty-nine thousand inhabitants**;**

(e) Any home rule city with more than seventy-three thousand but fewer than seventy-five thousand inhabitants.

(2) The governing body of any city listed in subdivision (1) of this subsection is hereby authorized to impose, by ordinance or order, a sales tax in the amount of up to one-half of one percent on all retail sales made in such city which are subject to taxation under the provisions of sections 144.010 to 144.525 for the purpose of improving the public safety for such city, including but not limited to expenditures on equipment, city employee salaries and benefits, and facilities for police, fire and emergency medical providers. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax pursuant to the provisions of this section shall be effective unless the governing body of the city submits to the voters of the city, at a county or state general, primary or special election, a proposal to authorize the governing body of the city to impose a tax.

2. If the proposal submitted involves only authorization to impose the tax authorized by this section, the ballot of submission shall contain, but need not be limited to, the following language:

Shall the city of ..... (city's name) impose a citywide sales tax of ..... (insert amount) for the purpose of improving the public safety of the city?

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

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

3. All revenue received by a city from the tax authorized under the provisions of this section shall be deposited in a special trust fund and shall be used solely for improving the public safety for such city for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for improving the public safety for the city. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city funds.

5. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, shall be deposited in a special trust fund, which is hereby created, to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of the general revenue fund. The director of the department of revenue shall keep accurate records of the amount of money in the trust and which was collected in each city imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director of the department of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax; such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters.

6. The director of the department of revenue may make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any city abolishes the tax, the city shall notify the director of the department of revenue of the action at least ninety days prior to the effective date of the repeal and the director of the department of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director of the department of revenue shall remit the balance in the account to the city and close the account of that city. The director of the department of revenue shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

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

181.060. STATE AID FOR PUBLIC LIBRARIES — APPROPRIATION, DISTRIBUTION, ALLOCATION, PROCEDURE — REQUIREMENTS. — 1. The general assembly may appropriate moneys for state aid to public libraries, which moneys shall be administered by the state librarian, and distributed as specified in rules and regulations promulgated by the Missouri state library, and approved by the secretary of state.

2. At least fifty percent of the moneys appropriated for state aid to public libraries shall be apportioned to all public libraries established and maintained under the provisions of the library laws or other laws of the state relating to libraries. The allocation of the moneys shall be based on an equal per capita rate for the population of each city, village, town, township, urban public library district, county or consolidated library district in which any library is or may be established, in proportion to the population according to the latest federal census of the cities, villages, towns, townships, school districts, county or regional library districts maintaining public libraries primarily supported by public funds which are designed to serve the general public. No grant shall be made to any public library which is tax supported if the rate of tax levied or the appropriation for the library should be decreased below the rate in force on December 31, 1946, or on the date of its establishment. Grants shall be made to any public library if a public library tax of at least ten cents per one hundred dollars assessed valuation has been voted in accordance with sections 182.010 to 182.460, RSMo, or as authorized in section 137.030, RSMo, and is duly assessed and levied for the year preceding that in which the grant is made, or if the appropriation for the public library in any city of first class yields one dollar or more per capita for the previous year according to the population of the latest federal census or if the amount provided by the city for the public library, in any other city in which the library is not supported by a library tax, is at least equal to the amount of revenue which would be realized by a tax of ten cents per one hundred dollars assessed valuation if the library had been tax supported. Except that, no grant under this section shall be affected because of a reduction in the rate of levy which is required by the provisions of section 137.073, RSMo**, or because of a voluntary reduction in the levy following the enactment of a district sales tax under section 182.802, if the proceeds from the sales tax equal or exceed the reduction in revenue from the levy**.

3. The librarian of the library together with the treasurer of the library or the treasurer of the city if there is no library treasurer shall certify to the state librarian the annual tax income and rate of tax or the appropriation for the library on the date of the enactment of this law, and of the current year, and each year thereafter, and the state librarian shall certify to the commissioner of administration the amount to be paid to each library.

4. The balance of the moneys shall be administered and supervised by the state librarian who may provide grants to public libraries for:

(1) Establishment, on a population basis to newly established city, county city/county or consolidated libraries;

(2) Equalization to city/county**[.] ,** urban public, county or consolidated libraries;

(3) Reciprocal borrowing;

(4) Technological development;

(5) Interlibrary cooperation;

(6) Literacy programs; and

(7) Other library projects or programs that may be determined by the local library, library advisory committee and the state library staff that would improve access to library services by the residents of this state. Newly established libraries shall certify through the legally established board or the governing body of the city supporting the library and the librarian of the library to the state librarian the fact of establishment, the rate of tax, the assessed valuation of the library district and the annual tax yield of the library. The state librarian shall then certify to the commissioner of administration the amount of establishment grant to be paid to the libraries and

warrants shall be issued for the amount allocated and approved. The sum appropriated for state aid to public libraries shall be separate and apart from any and all appropriations made to the state library.

182.802. PUBLIC LIBRARIES, SALES TAX AUTHORIZED — BALLOT LANGUAGE — DEFINITIONS (BUTLER, DUNKLIN, NEW MADRID, RIPLEY, STODDARD, AND WAYNE COUNTIES) — 1. A public library district located at least partially within any county of the third classification without a township form of government and with more than forty thousand eight hundred but fewer than forty thousand nine hundred inhabitants; any county of the third classification without a township form of government and with more than thirteen thousand five hundred but fewer than thirteen thousand six hundred inhabitants; any county of the third classification without a township form of government and with more than thirteen thousand two hundred but fewer than thirteen thousand three hundred inhabitants; any county of the third classification with a township form of government and with more than twenty-nine thousand seven hundred but fewer than twenty-nine thousand eight hundred inhabitants; any county of the second classification with more than nineteen thousand seven hundred but fewer than nineteen thousand eight hundred inhabitants; any county of the third classification with a township form of government and with more than thirty-three thousand one hundred but fewer than thirty-three thousand two hundred inhabitants; or any county of the third classification with a township form of government and with more than thirty-three thousand one hundred but fewer than thirty-three thousand two hundred inhabitants may, by a majority vote of its board of directors, impose a tax not to exceed one-half of one cent on all retail sales subject to taxation under sections 144.010 to 144.525 for the purpose of funding the operation and maintenance of public libraries within the boundaries of such library district. The tax authorized by this subsection shall be in addition to all other taxes allowed by law. No tax under this subsection shall become effective unless the board of directors submits to the voters of the district, at a county or state general, primary or special election, a proposal to authorize the tax, and such tax shall become effective only after the majority of the voters voting on such tax approve such tax.

2. In the event the district seeks to impose a sales tax under this subsection, the question shall be submitted in substantially the following form:

Shall a ..... cent sales tax be levied on all retail sales within the district for the purpose of providing funding for ..... library district?

[ ] YES [ ] NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the tax shall become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the board of directors shall have no power to impose the tax unless and until another proposal to authorize the tax is submitted to the voters of the district and such proposal is approved by a majority of the qualified voters voting thereon. The provisions of sections 32.085 and 32.087 shall apply to any tax approved under this subsection.

3. As used in this section, "qualified voters" or "voters" means any individuals residing within the district who are eligible to be registered voters and who have registered to vote under chapter 115, or, if no individuals are eligible and registered to vote reside within the proposed district, all of the owners of real property located within the proposed district who have unanimously petitioned for or consented to the adoption of an ordinance by the governing body imposing a tax authorized in this section. If the owner of the property within the proposed district is a political subdivision or corporation of the state, the governing body of such political subdivision or corporation shall be considered the owner for purposes of this section.

4. For purposes of this section the term "public library district" shall mean any city library district, county library district, city-county library district, municipal library district, consolidated library district, or urban library district.

[67.1005. TRANSIENT GUEST TAX ON HOTELS AND MOTELS IN CITIES AND COUNTIES — ISSUE SUBMITTED TO VOTERS, BALLOT LANGUAGE. — 1. The governing body of any city or county, other than a city or county already imposing a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof pursuant to any other law of this state, having more than three hundred fifty hotel and motel rooms inside such city or county may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or county or a portion thereof, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election a proposal to authorize the governing body of the city or county to impose a tax pursuant to this section 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 the promotion of tourism and 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. The tax authorized in this section shall not be imposed in any city or county where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such city or county or a portion thereof is imposed pursuant to any other law of this state, except that cities of the third class having more than two thousand five hundred hotel and motel rooms and located in a county of the first class where another tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in such county is imposed may impose the tax authorized in this section of not more than one-half percent per occupied room per night.

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

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

[ ] YES [ ] NO

4. As used in this section, "transient guests" shall mean 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.**]**

Approved July 7, 2011

HB 163 [SS SCS HCS HB 163]

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 unemployment compensation and makes Missouri eligible to receive extended federal unemployment benefit funds

AN ACT to repeal sections 288.040, 288.060, and 288.062, RSMo, and to enact in lieu thereof three new sections relating to unemployment compensation, with an emergency clause.

SECTION

A. Enacting clause.
288.040. Eligibility for benefits — exceptions — report, contents.
288.060. Benefits, how paid — wage credits — benefits due decedent — benefit warrants cancelled, when — electronic funds transfer system, allowed — remote claims filing procedures required, contents, duties.
288.062. "On" and "Off" indicators, state and national, how determined — extended benefits, defined — amount and how computed.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 288.040, 288.060, and 288.062, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 288.040, 288.060, and 288.062, to read as follows:

288.040. ELIGIBILITY FOR BENEFITS — EXCEPTIONS — REPORT, CONTENTS. — 1. A claimant who is unemployed and has been determined to be an insured worker shall be eligible for benefits for any week only if the deputy finds that:

(1) The claimant has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the division may prescribe;

(2) The claimant is able to work and is available for work. No person shall be deemed available for work unless such person has been and is actively and earnestly seeking work. Upon the filing of an initial or renewed claim, and prior to the filing of each weekly claim thereafter, the deputy shall notify each claimant of the number of work search contacts required to constitute an active search for work. No person shall be considered not available for work, pursuant to this subdivision, solely because he or she is a substitute teacher or is on jury duty. A claimant shall not be determined to be ineligible pursuant to this subdivision because of not actively and earnestly seeking work if:

(a) The claimant is participating in training approved pursuant to Section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended);

(b) The claimant is temporarily unemployed through no fault of his or her own and has a definite recall date within eight weeks of his or her first day of unemployment; however, upon application of the employer responsible for the claimant's unemployment, such eight-week period may be extended not to exceed a total of sixteen weeks at the discretion of the director;

(3) The claimant has reported in person to an office of the division as directed by the deputy, but at least once every four weeks, except that a claimant shall be exempted from the reporting requirement of this subdivision if:

(a) The claimant is claiming benefits in accordance with division regulations dealing with partial or temporary total unemployment; or

(b) The claimant is temporarily unemployed through no fault of his or her own and has a definite recall date within eight weeks of his or her first day of unemployment; or

(c) The claimant resides in a county with an unemployment rate, as published by the division, of ten percent or more and in which the county seat is more than forty miles from the nearest division office;

(d) The director of the division of employment security has determined that the claimant belongs to a group or class of workers whose opportunities for reemployment will not be enhanced by reporting in person, or is prevented from reporting due to emergency conditions that limit access by the general public to an office that serves the area where the claimant resides, but only during the time such circumstances exist. Ineligibility pursuant to this subdivision shall begin on the first day of the week which the claimant was scheduled to claim and shall end on the last day of the week preceding the week during which the claimant does report in person to the division's office;

(4) Prior to the first week of a period of total or partial unemployment for which the claimant claims benefits he or she has been totally or partially unemployed for a waiting period of one week. No more than one waiting week will be required in any benefit year. During calendar year 2008 and each calendar year thereafter, the one-week waiting period shall become compensable once his or her remaining balance on the claim is equal to or less than the compensable amount for the waiting period. No week shall be counted as a week of total or partial unemployment for the purposes of this subsection unless it occurs within the benefit year which includes the week with respect to which the claimant claims benefits;

(5) The claimant has made a claim for benefits within fourteen days from the last day of the week being claimed. The fourteen-day period may, for good cause, be extended to twenty-eight days;

(6) The claimant has reported to an employment office to participate in a reemployment assessment and reemployment services as directed by the deputy or designated staff of an employment office, unless the deputy determines that good cause exists for the claimant's failure to participate in such reemployment assessment and reemployment services. For purposes of this section, "reemployment services" may include, but not be limited to, the following:

(a) Providing an orientation to employment office services;

(b) Providing job search assistance; and

(c) Providing labor market statistics or analysis;

Ineligibility under this subdivision shall begin on the first day of the week which the claimant was scheduled to report for the reemployment assessment or reemployment services and shall end on the last day of the week preceding the week during which the claimant does report in person to the employment office for such reemployment assessment or reemployment services;

(7) The claimant is participating in reemployment services, such as job search assistance services, as directed by the deputy if the claimant has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the division, unless the deputy determines that:

(a) The individual has completed such reemployment services; or

(b) There is justifiable cause for the claimant's failure to participate in such reemployment services.

2. A claimant shall be ineligible for waiting week credit or benefits for any week for which the deputy finds he or she is or has been suspended by his or her most recent employer for misconduct connected with his or her work. Suspensions of four weeks or more shall be treated as discharges.

3. (1) Benefits based on "service in employment", defined in subsections 7 and 8 of section 288.034, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this law; except that:

(a) With respect to service performed in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms,

or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(b) With respect to services performed in any capacity (other than instructional, research, or principal administrative capacity) for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a contract or a reasonable assurance that such individual will perform such services in the second of such academic years or terms;

(c) With respect to services described in paragraphs (a) and (b) of this subdivision, benefits shall not be paid on the basis of such services to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performed such services in the period immediately before such vacation period or holiday recess, and there is reasonable assurance that such individual will perform such services immediately following such vacation period or holiday recess;

(d) With respect to services described in paragraphs (a) and (b) of this subdivision, benefits payable on the basis of services in any such capacity shall be denied as specified in paragraphs (a), (b), and (c) of this subdivision to any individual who performed such services at an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(2) If compensation is denied for any week pursuant to paragraph (b) or (d) of subdivision (1) of this subsection to any individual performing services at an educational institution in any capacity (other than instructional, research or principal administrative capacity), and such individual was not offered an opportunity to perform such services for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of paragraph (b) or (d) of subdivision (1) of this subsection.

4. (1) A claimant shall be ineligible for waiting week credit, benefits or shared work benefits for any week for which he or she is receiving or has received remuneration exceeding his or her weekly benefit amount or shared work benefit amount in the form of:

(a) Compensation for temporary partial disability pursuant to the workers' compensation law of any state or pursuant to a similar law of the United States;

(b) A governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment which is based on the previous work of such claimant to the extent that such payment is provided from funds provided by a base period or chargeable employer pursuant to a plan maintained or contributed to by such employer; but, except for such payments made pursuant to the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), the provisions of this paragraph shall not apply if the services performed for such employer by the claimant after the beginning of the base period (or remuneration for such services) do not affect eligibility for or increase the amount of such pension, retirement or retired pay, annuity or similar payment.

(2) If the remuneration referred to in this subsection is less than the benefits which would otherwise be due, the claimant shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration, and, if such benefit is not a multiple of one dollar, such amount shall be lowered to the next multiple of one dollar.

(3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, if a claimant has contributed in any way to the Social Security Act or the Railroad Retirement Act of 1974, or the corresponding provisions of prior law, no part of the payments received pursuant

to such federal law shall be deductible from the amount of benefits received pursuant to this chapter.

5. A claimant shall be ineligible for waiting week credit or benefits for any week for which or a part of which he or she has received or is seeking unemployment benefits pursuant to an unemployment insurance law of another state or the United States; provided, that if it be finally determined that the claimant is not entitled to such unemployment benefits, such ineligibility shall not apply.

6. (1) A claimant shall be ineligible for waiting week credit or benefits for any week for which the deputy finds that such claimant's total or partial unemployment is due to a stoppage of work which exists because of a labor dispute in the factory, establishment or other premises in which such claimant is or was last employed. In the event the claimant secures other employment from which he or she is separated during the existence of the labor dispute, the claimant must have obtained bona fide employment as a permanent employee for at least the major part of each of two weeks in such subsequent employment to terminate his or her ineligibility. If, in any case, separate branches of work which are commonly conducted as separate businesses at separate premises are conducted in separate departments of the same premises, each such department shall for the purposes of this subsection be deemed to be a separate factory, establishment or other premises. This subsection shall not apply if it is shown to the satisfaction of the deputy that:

(a) The claimant is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(b) The claimant does not belong to a grade or class of workers of which, immediately preceding the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute.

(2) "Stoppage of work" as used in this subsection means a substantial diminution of the activities, production or services at the establishment, plant, factory or premises of the employing unit. This definition shall not apply to a strike where the employees in the bargaining unit who initiated the strike are participating in the strike. Such employees shall not be eligible for waiting week credit or benefits during the period when the strike is in effect, regardless of diminution, unless the employer has been found guilty of an unfair labor practice by the National Labor Relations Board or a federal court of law for an act or actions preceding or during the strike.

7. On or after January 1, 1978, benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

8. Benefits shall not be payable on the basis of services performed by an alien, unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 212(d)(5) of the Immigration and Nationality Act).

(1) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of such individual's alien status shall be made except upon a preponderance of the evidence.

9. **A claimant shall be ineligible for waiting week credit or benefits for any week such claimant has an outstanding penalty which was assessed based upon an overpayment of benefits, as provided for in subsection 9 of section 288.380.**

10. The directors of the division of employment security and the division of workforce development shall submit to the governor, the speaker of the house of representatives, and the president pro tem of the senate no later than October 15, 2006, a report outlining their recommendations for how to improve work search verification and claimant reemployment activities. The recommendations shall include, but not limited to how to best utilize "greathires.org", and how to reduce the average duration of unemployment insurance claims. Each calendar year thereafter, the directors shall submit a report containing their recommendations on these issues by December thirty-first of each year.

288.060. BENEFITS, HOW PAID — WAGE CREDITS — BENEFITS DUE DECEDENT — BENEFIT WARRANTS CANCELLED, WHEN — ELECTRONIC FUNDS TRANSFER SYSTEM, ALLOWED — REMOTE CLAIMS FILING PROCEDURES REQUIRED, CONTENTS, DUTIES. — 1. All benefits shall be paid through employment offices in accordance with such regulations as the division may prescribe.

2. Each eligible insured worker who is totally unemployed in any week shall be paid for such week a sum equal to his or her weekly benefit amount.

3. Each eligible insured worker who is partially unemployed in any week shall be paid for such week a partial benefit. Such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. For calendar year 2007 and each year thereafter, such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars or twenty percent of his or her weekly benefit amount, whichever is greater, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. Termination pay, severance pay or pay received by an eligible insured worker who is a member of the organized militia for training or duty authorized by Section 502(a)(1) of Title 32, United States Code, shall not be considered wages for the purpose of this subsection.

4. The division shall compute the wage credits for each individual by crediting him or her with the wages paid to him or her for insured work during each quarter of his or her base period or twenty-six times his or her weekly benefit amount, whichever is the lesser. In addition, if a claimant receives wages in the form of termination pay or severance pay and such payment appears in a base period established by the filing of an initial claim, the claimant may, at his or her option, choose to have such payment included in the calendar quarter in which it was paid or choose to have it prorated equally among the quarters comprising the base period of the claim. The maximum total amount of benefits payable to any insured worker during any benefit year shall not exceed **[**twenty-six**] twenty** times his or her weekly benefit amount, or thirty-three and one-third percent of his or her wage credits, whichever is the lesser. For the purpose of this section, wages shall be counted as wage credits for any benefit year, only if such benefit year begins subsequent to the date on which the employing unit by whom such wages were paid has become an employer. The wage credits of an individual earned during the period commencing with the end of a prior base period and ending on the date on which he or she filed an allowed initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has subsequently earned either wages for insured work in an amount equal to at least five times his or her current weekly benefit amount or wages in an amount equal to at least ten times his or her current weekly benefit amount.

5. In the event that benefits are due a deceased person and no petition has been filed for the probate of the will or for the administration of the estate of such person within thirty days after

his or her death, the division may by regulation provide for the payment of such benefits to such person or persons as the division finds entitled thereto and every such payment shall be a valid payment to the same extent as if made to the legal representatives of the deceased.

6. The division is authorized to cancel any benefit warrant remaining outstanding and unpaid one year after the date of its issuance and there shall be no liability for the payment of any such benefit warrant thereafter.

7. The division may establish an electronic funds transfer system to transfer directly to claimants' accounts in financial institutions benefits payable to them pursuant to this chapter. To receive benefits by electronic funds transfer, a claimant shall satisfactorily complete a direct deposit application form authorizing the division to deposit benefit payments into a designated checking or savings account. Any electronic funds transfer system created pursuant to this subsection shall be administered in accordance with regulations prescribed by the division.

8. The division may issue a benefit warrant covering more than one week of benefits.

9. Prior to January 1, 2005, the division shall institute procedures including, but not limited to, name, date of birth, and Social Security verification matches for remote claims filing via the use of telephone or the Internet in accordance with such regulations as the division shall prescribe. At a minimum, the division shall verify the Social Security number and date of birth when an individual claimant initially files for unemployment insurance benefits. If verification information does not match what is on file in division databases to what the individual is stating, the division shall require the claimant to submit a division-approved form requesting an affidavit of eligibility prior to the payment of additional future benefits. The division of employment security shall cross-check unemployment compensation applicants and recipients with Social Security Administration data maintained by the federal government at least weekly. The division of employment security shall cross-check at least monthly unemployment compensation applicants and recipients with department of revenue drivers license databases.

288.062. "ON" AND "OFF" INDICATORS, STATE AND NATIONAL, HOW DETERMINED — EXTENDED BENEFITS, DEFINED — AMOUNT AND HOW COMPUTED. — 1. As used in this section, unless the context clearly requires otherwise:

(1) "Extended benefit period" means a period which begins with the third week after a week for which there is a state "on" indicator, and ends with either of the following weeks, whichever occurs later:

(a) The third week after the first week for which there is a state "off" indicator; or

(b) The thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state;

(2) There is a "state 'on' indicator" for this state for a week if the director determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this law:

(a) **a.** Equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years; and

[(b)**] b.** Equaled or exceeded four percent for weeks beginning prior to or on September 25, 1982, or five percent for weeks beginning after September 25, 1982; except that, if the rate of insured unemployment as contemplated in this subdivision equals or exceeds five percent for weeks beginning prior to or on September 25, 1982, or six percent for weeks beginning after September 25, 1982, the determination of an "on" indicator shall be made under this subdivision as if this subdivision did not contain the provisions of **subparagraph a. of** paragraph (a) of this subdivision; or

[(c)**] (b)** With respect to weeks of unemployment beginning on or after February 1, 2009, and ending on or before the week ending four weeks prior to the last week of unemployment for

which one hundred percent federal sharing is available under the provisions of Public Law 111-5, Section 2005(a) or **[**March 3, 2011**] August 28, 2013**, whichever should occur first:

a. The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of such week equals or exceeds six and one-half percent; and

b. The average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in subparagraph a. of this paragraph, equals or exceeds one hundred and ten percent of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years; **or**

c. Effective with respect to compensation for weeks of unemployment beginning after the date of enactment of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111-312, and ending on or before the last day allowable by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in subparagraph a. of this paragraph, equals or exceeds one hundred and ten percent of such average for any or all of the corresponding three-month periods ending in the three preceding calendar years;

(3) There is a "state 'off' indicator" for this state for a week if the director determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this law:

(a) Was less than one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years; or

(b) Was less than four percent (five percent for weeks beginning after September 25, 1982); except, there shall not be an "off" indicator for any week in which an "on" indicator as contemplated in **subparagraph b. of** paragraph **[**(b)**] (a)** of subdivision (2) of this subsection exists;

(4) "Rate of insured unemployment", for the purposes of subdivisions (2) and (3) of this subsection, means the percentage derived by dividing:

(a) The average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the director on the basis of his or her reports to the United States Secretary of Labor, by

(b) The average monthly employment covered under this law for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period;

(5) "Regular benefits" means benefits payable to an individual under this law or under any other state law (including benefits payable to federal civilian employees and ex-servicemen pursuant to 5 U.S.C. Chapter 85) other than extended benefits;

(6) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. Chapter 85) payable to an individual under the provisions of this section for weeks of unemployment in his or her eligibility period;

(7) "Eligibility period" of an individual means the period consisting of the weeks in his or her benefit year which begin in an extended benefit period and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period;

(8) "Exhaustee" means an individual who, with respect to any week of unemployment in his or her eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were available to him or her under this law or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. Chapter 85) in his or

her current benefit year that includes such week; provided, that, for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him or her although as a result of a pending appeal with respect to wages or employment, or both, that were not considered in the original monetary determination in his or her benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(b) Has received, prior to such week, all the regular compensation available to him or her in his or her current benefit year that includes such week under the unemployment compensation law of the state in which he or she files a claim for extended compensation or the unemployment compensation law of any other state after a cancellation of some or all of his or her wage credits or the partial or total reduction of his or her right to regular compensation; or

(c) His or her benefit year having expired prior to such week, he or she has insufficient wages or employment, or both, on the basis of which he or she could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he or she is precluded from receiving regular compensation by reason of a state law provision which meets the requirement of section 3304(a)(7) of the Internal Revenue Code of 1954; and

(d) a. Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

b. Has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if he or she is seeking such benefits and the appropriate agency finally determines that he or she is not entitled to benefits under such law he or she is considered an exhaustee;

(9) "State law" means the unemployment insurance law of any state, approved by the United States Secretary of Labor under Section 3304 of the Internal Revenue Code of 1954.

2. Except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the director, the provisions of this law which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

3. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the deputy finds that with respect to such week:

(1) He or she is an exhaustee as defined in subdivision (8) of subsection 1 of this section;

(2) He or she has satisfied the requirements of this law for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; except that, in the case of a claim for benefits filed in another state, which is acting as an agent state under the Interstate Benefits Payment Plan as provided by regulation, which claim is based on benefit credits accumulated in this state, eligibility for extended benefits shall be limited to the first two compensable weeks unless there is an extended benefit period in effect in both this state and the agent state in which the claim was filed;

(3) The other provisions of this law notwithstanding, as to new extended benefit claims filed after September 25, 1982, an individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the deputy finds that the total wages in the base period of his or her benefit year equal at least one and one-half times the wages paid during that quarter of his or her base period in which his or her wages were highest.

4. A claimant shall not be eligible for extended benefits following any disqualification imposed under subsection 1 or 2 of section 288.050, unless subsequent to the effective date of the disqualification, the claimant has been employed during at least four weeks and has earned wages equal to at least four times his or her weekly benefit amount.

5. For the purposes of determining eligibility for extended benefits, the term "suitable work" means any work which is within such individual's capabilities except that, if the individual furnishes satisfactory evidence that the prospects for obtaining work in his or her customary occupation within a reasonably short period are good, the determination of what constitutes suitable work shall be made in accordance with the provisions of subdivision (3) of subsection 1 of section 288.050. If a deputy finds that a person who is claiming extended benefits has refused to accept or to apply for suitable work, as defined in this subsection, or has failed to actively engage in seeking work subsequent to the effective date of his or her claim for extended benefits, that person shall be ineligible for extended benefits for the period beginning with the first day of the week in which such refusal or failure occurred. That ineligibility shall remain in effect until the person has been employed for at least four weeks after the week in which the refusal or failure occurred and has earned wages equal to at least four times his or her weekly benefit amount.

6. Extended benefits shall not be denied under subsection 5 of this section to any individual for any week by reason of a failure to accept an offer of or apply for suitable work if:

(1) The gross average weekly remuneration for such work does not exceed the individual's weekly benefit amount plus the amount of any supplemental unemployment benefits, as defined in section 501(c)(17)(d) of the Internal Revenue Code, payable to such individual for such week; or

(2) The position was not offered to such individual in writing or was not listed with the state employment service; or

(3) If the remuneration for the work offered is less than the minimum wage provided by Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, without regard to any exemption or any applicable state or local minimum wage, whichever is the greater.

7. For the purposes of this section, an individual shall be considered as actively engaged in seeking work during any week with respect to which the individual has engaged in a systematic and sustained effort to obtain work as indicated by tangible evidence which the individual provides to the division.

8. Extended benefits shall not be denied for failure to apply for or to accept suitable work if such failure would not result in a denial of benefits under subdivision (3) of subsection 1 of section 288.050 to the extent that the provisions of subdivision (3) of subsection 1 of section 288.050 are not inconsistent with the provisions of subsections 5 and 6 of this section.

9. The division shall refer any claimant entitled to extended benefits under this law to any suitable work which meets the criteria established in subsections 5 and 6 of this section.

10. Notwithstanding other provisions of this chapter to the contrary, as to claims of extended benefits, subsections 4 to 9 of this section shall not apply to weeks of unemployment beginning after March 6, 1993, and before January 1, 1995. Entitlement to extended benefits for weeks beginning after March 6, 1993, and before January 1, 1995, shall be determined in accordance with provisions of this chapter not excluded by this subsection.

11. "Weekly extended benefit amount." The weekly extended benefit amount payable to an individual for a week of total unemployment in his or her eligibility period shall be an amount equal to the weekly benefit amount payable to him or her during his or her applicable benefit year, reduced by a percentage equal to the percentage of the reduction in federal payments to states under Section 204 of the Federal State Extended Unemployment Compensation Act of 1970, in accord with any order issued under any law of the United States. Such weekly benefit amount, if not a multiple of one dollar, shall be reduced to the nearest lower full dollar amount.

12. (1) "Total extended benefit amount." The total extended benefit amount payable to any eligible individual with respect to his or her applicable benefit year shall be the lesser of the following amounts:

(a) Fifty percent of the total amount of regular benefits which were payable to him or her under this law in his or her applicable benefit year;

(b) Thirteen times his or her weekly benefit amount which was payable to him or her under this law for a week of total unemployment in the applicable benefit year.

(2) Notwithstanding subdivision (1) of this subsection, during any fiscal year in which federal payments to states under Section 204 of the Federal State Extended Unemployment Compensation Act of 1970 are reduced under any order issued under any law of the United States, the total extended benefit amount payable to an individual with respect to his or her applicable benefit year shall be reduced by an amount equal to the aggregate of the reductions under subsection 11 of this section in the weekly amounts paid to the individual.

(3) Notwithstanding the other provisions of this subsection, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this subdivision, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received trade readjustment allowances under the Trade Act of 1974, as amended, within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(4) (a) Effective with respect to weeks beginning in a high unemployment period, subdivision (1) of this subsection shall be applied by substituting:

a. Eighty percent for fifty percent in paragraph (a) of subdivision (1) of this subsection; and

b. Twenty times for thirteen times in paragraph (b) of subdivision (1) of this subsection.

(b) For purposes of paragraph (a) of this subdivision, the term "high unemployment period" means any period during which an extended benefit period would be in effect if subparagraph a. of paragraph **[**(c)**] (b)** of subdivision (2) of subsection 1 of this section were applied by substituting eight percent for six and one-half percent.

13. (1) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the director shall make an appropriate public announcement.

(2) Computations required by the provisions of subdivision (4) of subsection 1 of this section shall be made by the director, in accordance with regulations prescribed by the United States Secretary of Labor.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to help Missourians during economic hardship, 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 April 13, 2011

HB 174 [HCS HB 174]

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 composition of the Coordinating Board for Higher Education, the University of Missouri Board of Curators, and the Missouri State University Board of Governors

AN ACT to repeal sections 172.030, 173.005, and 174.450, RSMo, and to enact in lieu thereof three new sections relating to higher education governing boards, with an existing penalty provision.

SECTION
A. Enacting clause.
172.030. Curators, number of — how appointed.
173.005. Department of higher education created — agencies, divisions, transferred to department — coordinating board, appointment qualifications, terms, compensation, duties, advisory committee, members.
174.450. Board of governors to be appointed for certain public institutions of higher education, qualifications, terms.

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

SECTION A. ENACTING CLAUSE. — Sections 172.030, 173.005, and 174.450, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 172.030, 173.005, and 174.450, to read as follows:

172.030. CURATORS, NUMBER OF — HOW APPOINTED. — The board of curators of the University of the state of Missouri shall hereafter consist of nine members, who shall be appointed by the governor, by and with the advice and consent of the senate; provided, that **[**not more than one person**] at least one but no more than two** shall be appointed upon said board from **[**the same**] each** congressional district, and no person shall be appointed a curator who shall not be a citizen of the United States, and who shall not have been a resident of the state of Missouri two years next prior to his appointment. Not more than five curators shall belong to any one political party. **Notwithstanding any provision of law to the contrary, nothing in this section relating to a change in the composition and configuration of congressional districts in this state shall prohibit a member who is serving a term on August 28, 2011 from completing his or her term.**

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

2. The commission on higher education is abolished and all its powers, duties, personnel and property are transferred by type I transfer to the "Coordinating Board for Higher Education", which is hereby created, and the coordinating board shall be the head of the department. The coordinating board shall consist of nine members appointed by the governor with the advice and consent of the senate, and not more than five of its members shall be of the same political party. None of the members shall be engaged professionally as an educator or educational administrator with a public or private institution of higher education at the time appointed or during his term. **[**The other qualifications, terms and compensation of the coordinating board shall be the same as provided by law for the curators of the University of Missouri.**] Moreover, no person shall be appointed to the coordinating board who shall not be a citizen of the United States, and who shall not have been a resident of the state of Missouri two years next prior to appointment, and at least one but not more than two persons shall be appointed to said board from each congressional district. The term of service of a member of the coordinating board shall be six years and said members, while attending the meetings of the board, shall be reimbursed for their actual expenses. Notwithstanding any provision of law to the contrary, nothing in this section relating to a change in the composition and configuration of congressional districts in this state shall prohibit a member who is serving a term on August 28, 2011 from completing his or her term.** The coordinating board may, in order to carry out the duties prescribed for it in subsections 1, 2, 3, 7, and 8 of this section, employ such professional, clerical and research personnel as may be necessary to assist it in performing those duties, but this staff shall not, in any fiscal year, exceed twenty-five full-time

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

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

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

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

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

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

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

(7) The coordinating board shall establish guidelines to promote and facilitate the transfer of students between institutions of higher education within the state and shall ensure that as of the 2008-09 academic year, in order to receive increases in state appropriations, all approved public two- and four-year public institutions shall work with the commissioner of higher education to establish agreed-upon competencies for all entry-level collegiate courses in English, mathematics, foreign language, sciences, and social sciences associated with an institution's general education core and that the coordinating board shall establish policies and procedures to ensure such courses are accepted in transfer among public institutions and treated as equivalent to similar courses at the receiving institutions. The department of elementary and secondary education shall align such competencies with the assessments found in section 160.518 and successor assessments;

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

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

(10) If any institution of higher education in this state, public or private, willfully fails or refuses to follow any lawful guideline, policy or procedure established or prescribed by the coordinating board, or knowingly deviates from any such guideline, or knowingly acts without coordinating board approval where such approval is required, or willfully fails to comply with any other lawful order of the coordinating board, the coordinating board may, after a public hearing, withhold or direct to be withheld from that institution any funds the disbursement of which is subject to the control of the coordinating board, or may remove the approval of the institution as an approved institution within the meaning of section 173.1102. If any such public institution willfully disregards board policy, the commissioner of higher education may order such institution to remit a fine in an amount not to exceed one percent of the institution's current fiscal year state operating appropriation to the board. The board shall hold such funds until such time that the institution, as determined by the commissioner of higher education, corrects the violation, at which time the board shall refund such amount to the institution. If the commissioner determines that the institution has not redressed the violation within one year, the fine amount shall be deposited into the general revenue fund, unless the institution appeals such decision to the full coordinating board, which shall have the authority to make a binding and final decision, by means of a majority vote, regarding the matter. However, nothing in this section shall prevent any institution of higher education in this state from presenting additional budget requests or from explaining or further clarifying its budget requests to the governor or the general assembly; and

(11) (a) As used in this subdivision, the term "out-of-state public institution of higher education" shall mean an education institution located outside of Missouri that:

a. Is controlled or administered directly by a public agency or political subdivision or is classified as a public institution by the state;

b. Receives appropriations for operating expenses directly or indirectly from a state other than Missouri;

c. Provides a postsecondary course of instruction at least six months in length leading to or directly creditable toward a degree or certificate;

d. Meets the standards for accreditation by an accrediting body recognized by the United States Department of Education or any successor agency; and

e. Permits faculty members to select textbooks without influence or pressure by any religious or sectarian source.

(b) No later than July 1, 2008, the coordinating board shall promulgate rules regarding:

a. The board's approval process of proposed new degree programs and course offerings by any out-of-state public institution of higher education seeking to offer degree programs or course work within the state of Missouri; and

b. The board's approval process of degree programs and courses offered by any out-of-state public institutions of higher education that, prior to July 1, 2008, were approved by the board to operate a school in compliance with the provisions of sections 173.600 to 173.618. The rules shall ensure that, as of July 1, 2008, all out-of-state public institutions seeking to offer degrees and courses within the state of Missouri are evaluated in a manner similar to Missouri public higher education institutions. Such out-of-state public institutions shall be held to standards no lower than the standards established by the coordinating board for program approval and the policy guidelines of the coordinating board for data collection, cooperation, and resolution of disputes between Missouri institutions of higher education under this section. Any such out-of-state public institutions of higher education wishing to continue operating within this state must be approved by the board under the rules promulgated under this subdivision. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 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.

(c) Nothing in this subdivision or in section 173.616 shall be construed or interpreted so that students attending an out-of-state public institution are considered to be attending a Missouri public institution of higher education for purposes of obtaining student financial assistance.

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

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

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

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

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

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

174.450. BOARD OF GOVERNORS TO BE APPOINTED FOR CERTAIN PUBLIC INSTITUTIONS OF HIGHER EDUCATION, QUALIFICATIONS, TERMS. — 1. Except as provided in subsection 2 and subsection 6 of this section, the governing board of Central Missouri State University, Missouri State University, Missouri Southern State University, Missouri Western State University, and of each other public institution of higher education which, through the procedures established in subdivision (7) or (8) of section 173.030, is charged with a statewide mission shall be a board of governors consisting of eight members, composed of seven voting members and one nonvoting member as provided in sections 174.453 and 174.455, who shall

be appointed by the governor of Missouri, by and with the advice and consent of the senate. No person shall be appointed a voting member who is not a citizen of the United States and who has not been a resident of the state of Missouri for at least two years immediately prior to such appointment. Not more than four voting members shall belong to any one political party. The appointed members of the board of regents serving on the date of the statutory mission change shall become members of the board of governors on the effective date of the statutory mission change and serve until the expiration of the terms for which they were appointed. The board of regents of any such institution shall be abolished on the effective date of the statutory mission change, as prescribed in subdivision (7) or (8) of section 173.030.

2. The governing board of Missouri State University, a public institution of higher education charged with a statewide mission in public affairs, shall be a board of governors of ten members, composed of nine voting members and one nonvoting member, who shall be appointed by the governor, by and with the advice and consent of the senate. The nonvoting member shall be a student selected in the same manner as prescribed in section 174.055. **[**No more than one voting member**] At least one but no more than two voting members** shall be appointed to the board from **[**the same**] each** congressional district, and every member of the board shall be a citizen of the United States, and a resident of this state for at least two years prior to his or her appointment. No more than five voting members shall belong to any one political party. The term of office of the governors shall be six years. The voting members of the board of governors serving on August 28, 2005, shall serve until the expiration of the terms for which they were appointed. For those voting members appointed after August 28, 2005, the term of office will be established in a manner where no more than three terms shall expire in a given year. The term of office for those appointed hereafter shall end January first in years ending in an odd number. **Notwithstanding any provision of law to the contrary, nothing in this section relating to a change in the composition and configuration of congressional districts in this state shall prohibit a member who is serving a term on August 28, 2011 from completing his or her term.**

3. If a voting member of the board of governors of Missouri State University is found by unanimous vote of the other governors to have moved such governor's residence from the district from which such governor was appointed, then the office of such governor shall be forfeited and considered vacant.

4. Should the total number of Missouri congressional districts be altered, all members of the board of governors of Missouri State University shall be allowed to serve the remainder of the term for which they were appointed.

5. Should the boundaries of any congressional districts be altered in a manner that displaces a member of the board of governors of Missouri State University from the congressional district from which the member was appointed, the member shall be allowed to serve the remainder of the term for which the member was appointed.

6. The governing board of Missouri Southern State University shall be a board of governors consisting of nine members, composed of eight voting members and one nonvoting member as provided in sections 174.453 and 174.455, who shall be appointed by the governor of Missouri, by and with the advice and consent of the senate. No person shall be appointed a voting member who is not a citizen of the United States and who has not been a resident of the state of Missouri for at least two years immediately prior to such appointment. Not more than four voting members shall belong to any one political party.

Approved May 2, 2011

HB 182 [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.

Designates the first Friday in March as "Dress in Blue for Colon Cancer Awareness Day"

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of dress in blue for colon cancer awareness day.

SECTION
A. Enacting clause.
9.156. Dress in Blue for Colon Cancer Awareness Day designated for the first Friday in March.

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

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.156, to read as follows:

9.156. DRESS IN BLUE FOR COLON CANCER AWARENESS DAY DESIGNATED FOR THE FIRST FRIDAY IN MARCH. — The first Friday in March of each year shall be known and designated as "Dress in Blue for Colon Cancer Awareness Day". It is recommended to the people of the state that the day be appropriately observed by wearing blue and through activities which will increase awareness of colon cancer.

Approved May 5, 2011

HB 183 [HB 183]

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 Police Retirement System of Kansas City and the Civilian Employees' Retirement System of the Police Department of Kansas City

AN ACT to repeal sections 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, and 86.1620, RSMo, and to enact in lieu thereof twenty-one new sections relating to police and civilian employees' retirement systems.

SECTION
A. Enacting clause.
86.900. Definitions.
86.1030. Benefits and administrative expenses to be paid by retirement system funds — commencement of base pension — death of a member, effect of.
86.1100. Creditable service, board to fix and determine by rule.
86.1110. Military leave of absence, effect of — service credit for military service, when.
86.1120. Termination of members after five or more years of service, credit towards retirement.
86.1140. Leave of absence not to act as termination of membership — creditable service permitted, when.
86.1150. Retirement age — base pension amount.
86.1230. Supplemental retirement benefits, amount — member to be special consultant, compensation.
86.1240. Pensions of spouses of deceased members — surviving spouse to be appointed as consultant to board, when.
86.1250. Pensions of children of deceased members.
86.1310. Definitions.

86.1420. Benefits and administrative expenses to be paid by system funds — commencement of base pension, when — death of member, effect of.
86.1480. Who shall be members.
86.1490. Creditable service, determination of — inclusions and exclusions.
86.1500. Military service, effect on creditable service — election to purchase creditable service, when — service credit for military service, when.
86.1510. Members entitled to prior creditable service, when.
86.1540. Normal pension, amount — early retirement option, when — election for optional benefit for spouse — pension after five years of creditable service — felony conviction, effect of.
86.1560. Disability retirement pension, amount — definitions — board to determine disability, proof may be required.
86.1600. Supplemental retirement benefit, amount, cost-of-living adjustments — special consultant, compensation — cost-of-living adjustments, rulemaking authority — member defined.
86.1610. Death of member in service, benefit to be received — death of member after retirement, benefit to be received — surviving spouse benefits.
86.1620. Funeral benefits, amount.

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

SECTION A. ENACTING CLAUSE. — Sections 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, and 86.1620, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, and 86.1620, to read as follows:

86.900. DEFINITIONS. — The following words and phrases as used in sections 86.900 to 86.1280 shall have the following meanings unless a different meaning is plainly required by the context:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary, for the purchase of prior service credits or any other purpose permitted under sections 86.900 to 86.1280;

(2) **"Actuarial cost", the present value of a future payment or series of payments as calculated by applying the actuarial assumptions established according to subsection 8 of section 86.1270;**

(3) "Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.900 to 86.1280;

[(3)**] (4)** "Board of police commissioners", the board composed of police commissioners authorized by law to employ and manage an organized police force in the cities;

[(4)**] (5)** "City" or "cities", any city which now has or may hereafter have a population of more than three hundred thousand and less than seven hundred thousand inhabitants, or any city that has made an election under section 86.910 to continue a police retirement system maintained under sections 86.900 to 86.1280;

[(5)**] (6)** "Compensation", the basic wage or salary paid a member for any period on the basis of the member's rank and position, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

[(6)**] (7)** "Consultant", unless otherwise specifically defined, a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, upon request of the retirement board, shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be needed by the board;

[(7)**] (8)** "Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.900 to 86.1280 by meeting the requirements specified in said sections or section 105.691;

[(8)**] (9)** "Final compensation", the average annual compensation of a member during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member, no compensation for service after the thirtieth full year of membership service shall be included. For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;

[(9)**] (10)** "Fiscal year", for the retirement system, the fiscal year of the cities;

[(10)**] (11)** "Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;

[(11)**] (12)** "Medical board", not less than one nor more than three physicians appointed by the retirement board to arrange for and conduct medical examinations as directed by the retirement board;

[(12)**] (13)** "Member", a member of the police retirement system as described in section 86.1090;

[(13)**] (14)** "Pension", annual payments for life, payable monthly, **[**beginning with the date of retirement or other applicable commencement date and ending with death**] at the times described in section 86.1030**;

[(14)**] (15)** "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.900 to 86.1280 and by the members of the police retirement system;

[(15)**] (16)** "Police officer", an officer or member of the police department of the cities employed for compensation by the boards of police commissioners of the cities for police duty who holds a rank or position for which an annual salary range is provided in section 84.480 or 84.510; in case of dispute as to whether any person is a police officer qualified for membership in the retirement system, the decision of the board of police commissioners shall be final;

[(16)**] (17)** "Retirement board" or "board", the board provided in section 86.920 to administer the retirement system;

[(17)**] (18)** "Retirement system", the police retirement system of the cities as defined in section 86.910;

[(18)**] (19)** "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.900 to 86.1280 by reason of surviving a member, shall include only:

(a) A person who was married to a member at the time of the member's death in the line of duty or from an occupational disease arising out of and in the course of the member's employment and who had not, after the member's death and prior to August 28, 2000, remarried;

(b) With respect to a member who retired or died prior to August 28, 1997, a spouse who survives such member, whose marriage to such member occurred at least two years before the member's retirement or at least two years before the member's death while in service, and who had not remarried anyone other than the member prior to August 28, 2000;

(c) With respect to a member who retired or died while in service after August 28, 1997, and before August 28, 2000, a spouse who survives such member, was married to such member at the time of such member's retirement or of such member's death while in service, and had not, after the member's death and prior to August 28, 2000, remarried; and

(d) With respect to a member who retires or dies in service after August 28, 2000, a spouse who survives a member and was married to such member at the time of such member's retirement or death while in service.

86.1030. BENEFITS AND ADMINISTRATIVE EXPENSES TO BE PAID BY RETIREMENT SYSTEM FUNDS — COMMENCEMENT OF BASE PENSION — DEATH OF A MEMBER, EFFECT OF.

— **1.** All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system.

2. The base pension of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a base pension under sections 86.900 to 86.1280 shall commence as of the first day of the month next following such retirement or termination with no proration of such pension for the month in which such retirement or termination occurs. The supplemental retirement benefits of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a supplemental retirement benefit provided in subsection 1 of section 86.1230 shall commence as of the first day of the month next following such retirement or termination with no proration of such supplemental retirement benefit for the month in which such retirement or termination occurs.

3. Upon the death of a member who is receiving a base pension under sections 86.900 to 86.1280 leaving a surviving spouse, as defined in section 86.900, entitled to benefits, payment of the member's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such member was living, shall be made to such surviving spouse, and the benefit for which such spouse is entitled under section 86.1240 shall be prorated and paid to such spouse for the remainder of such month.

4. Upon the death of a member who is receiving a base pension under sections 86.900 to 86.1280 leaving no surviving spouse, as defined in section 86.900, entitled to benefits, payment of the member's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such member was living, shall be made in equal shares to or for the benefit of the children, if any, of such member as are entitled to share in spousal benefits as described in subsection 2 of section 86.1250. If no such children shall survive such member, such prorated benefit for the month of such member's death shall be paid to the beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit. If no beneficiary is named, then no payment shall be made of such prorated benefit for the month of such member's death.

5. Upon the death of a surviving spouse who is receiving a base pension under section 86.1240, payment of such spouse's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such spouse was living, shall be made in equal shares to or for the benefit of the children, if any, of the member of whom such spouse is the surviving spouse as are entitled to share in spousal benefits described in subsection 2 of section 86.1250. If no such children shall survive such spouse, such prorated benefit for the month of such spouse's death shall be paid to the beneficiary named by such surviving spouse in a writing filed with the retirement system prior to such spouse's death for the purpose of receiving such benefit. If no beneficiary is named, then no payment shall be made of such prorated benefit for the month of such spouse's death.

6. Upon the death of a member who is receiving a supplemental benefit under section 86.1230 and who leaves a surviving spouse, as defined in section 86.900, entitled to benefits, the entire supplemental benefit for the month of such death shall be paid to such surviving spouse without proration, and the surviving spouse shall receive no additional supplemental benefit for such month.

7. Upon the death of a member who is receiving a supplemental benefit under section 86.1230 and who leaves no surviving spouse, as defined in section 86.900, entitled to benefits, or upon the death of a surviving spouse who is receiving a supplemental benefit under section 86.1230, such supplemental benefit shall terminate upon such death. No benefit shall be payable for any period after the most recent monthly payment of such benefit prior to such death.

8. Upon the death of a member in service who leaves a surviving spouse, as defined in section 86.900, entitled to benefits, the base pension of such surviving spouse shall commence as of the first day of the month next following such death with no proration of such pension for the month in which such death occurs.

9. Upon the death of a member in service who leaves no surviving spouse, as defined in section 86.900, entitled to benefits, any benefit payable to surviving children of such member under subsection 2 of section 86.1250 shall commence as of the first day of the month next following such death with no proration of such benefit for the month in which such death occurs. If there are no such surviving children entitled to such benefit, then such member's accumulated contributions shall be paid to the beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, or if no beneficiary is named, then to such member's estate.

10. Upon the death of a member in service or after retirement, any benefit payable to the surviving children of such member under subsection 1 of section 86.1250 shall commence as of the first day of the month next following such death with no proration of such benefit for the month in which such death occurs.

11. All payments of any benefit shall be paid on the last business day of each month for that month. For any benefit under sections 86.900 to 86.1280, the retirement system shall withhold payment of such benefit until all requisite documentation has been filed with the retirement system evidencing the entitlement of payee to such payment.

12. If no benefits are otherwise payable to a surviving spouse or child of a deceased member or otherwise as provided in this section, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse or child of such member or otherwise as provided in this section, shall be paid in one lump sum to the member's beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, or if no beneficiary is named, then to such member's estate. Such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

86.1100. CREDITABLE SERVICE, BOARD TO FIX AND DETERMINE BY RULE. — 1. The retirement board shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service. In no case shall more than one year of service be creditable for all service rendered in one calendar year. The retirement board shall not allow credit as service for any period **[**of more than thirty consecutive days**]** during which the member was absent without compensation, except as provided in **[**subsection 3 of section**] sections 86.1110 and** 86.1140.

2. **Except as provided in subsection 3 of section 86.1110,** creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member since such member last became a member.

3. Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.900 to 86.1280.

4. Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1010 or from the city under section 86.1000 for such time.

5. Any member who has completed thirty years of creditable service may continue in service by permission of the board of police commissioners. Contributions shall not be required of, and no service shall be credited to, any member for more than thirty years of service.

86.1110. MILITARY LEAVE OF ABSENCE, EFFECT OF — SERVICE CREDIT FOR MILITARY SERVICE, WHEN. — 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Except as provided in subsection 3 of this section, a member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial **[**value**] cost** of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. **[**The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system.**]** Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse, or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.900 to 86.1280.

3. Notwithstanding any other provision of sections 86.900 to 86.1280, a member who is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations, and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code, relating to employment and reemployment rights of members of the uniformed services by meeting the requirements for such rights and benefits under Section 4312 of said chapter, or the corresponding provisions of any subsequent applicable **[**U.S.**] federal** statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.900 to 86.1280 and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of such service to be included in the calculation of such member's compensation for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence.

86.1120. TERMINATION OF MEMBERS AFTER FIVE OR MORE YEARS OF SERVICE, CREDIT TOWARDS RETIREMENT. — Members who terminate membership with five years or more of

creditable service and later return to membership may be given credit toward retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the **[**accumulated contributions which had been paid to such member upon the prior termination. Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest equal to the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes**] member's portion of the actuarial cost to restore such service. The member's portion of the actuarial cost is determined on the ratio of the member's contribution rate to the total of the member and employer contribution rates at the time the member elects to purchase the creditable service**.

86.1140. LEAVE OF ABSENCE NOT TO ACT AS TERMINATION OF MEMBERSHIP — CREDITABLE SERVICE PERMITTED, WHEN. — 1. Should any member be granted leave of absence by the board of police commissioners, such member shall not, because of such absence, cease to be a member.

2. If a member is on leave of absence by authority of the board of police commissioners for thirty consecutive days or less, **and returns from such leave prior to August 28, 2011,** such member shall receive creditable service for such time.

3. Except as provided in subsection 3 of section 86.1110, if a member is on leave of absence **[**for more than thirty consecutive days**]** without compensation, such member shall not receive service credits for such time unless such member shall**[**, within one year after returning from such absence, pay into the retirement system an amount equal to the member's contribution percentage at the time such absence began times an assumed salary figure for the period of such absence, computed by assuming that such member received a salary during such absence at the rate of the base annual salary the member was receiving immediately prior to such absence**] return to active service and purchase such creditable service at the actuarial cost. The actuarial cost shall be determined at the time the member makes such purchase**.

86.1150. RETIREMENT AGE — BASE PENSION AMOUNT. — 1. Any member may retire when such member has completed twenty-five or more years of creditable service and, except as otherwise provided in section 86.1100, shall retire when such member has completed thirty years of creditable service. Upon such retirement such member shall receive a base pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service. Such pension shall not exceed seventy-five percent of the member's final compensation.

2. Every member not having thirty years of service must retire at sixty years of age except that on recommendation of the chief of police, the board of police commissioners may permit such member who is sixty years of age or over to remain in service until such member reaches the age of sixty-five years. Such member shall continue to make contributions and receive credit for service until reaching sixty-five years of age, until retirement, or until completion of thirty years of creditable service, whichever occurs first. If such member shall reach sixty-five years of age or shall retire prior to completion of twenty-five years of service, the base pension of such member shall be calculated under subsection 3 of this section.

3. Except as provided in section 86.1100 or in subsection 2 of this section, any member in service who shall have attained sixty years of age and at that time shall have completed at least ten but less than thirty years of creditable service shall retire and shall receive a base pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation as defined in section 86.900 multiplied by the number of years of such member's total creditable service.

4. Subject to the provisions of subsection 5 of this section, whenever the service of a member is terminated for any reason prior to death or retirement and the member has fifteen or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to a base pension **[**beginning at**]** **commencing on the first day of the month following the attainment of** the age of fifty-five, if then living, equal to:

(1) For a member whose service so terminates prior to August 28, 2001, two percent of such member's final compensation multiplied by the number of years of such member's creditable service; or

(2) For a member whose service so terminates on or after August 28, 2001, two and one-half percent of such member's final compensation multiplied by the number of years of such member's creditable service.

5. Notwithstanding any other provisions of sections 86.900 to 86.1280, any member who is convicted of a felony prior to separation from active service shall not be entitled to any benefit from this retirement system except the return of such member's accumulated contributions.

86.1230. SUPPLEMENTAL RETIREMENT BENEFITS, AMOUNT — MEMBER TO BE SPECIAL CONSULTANT, COMPENSATION. — 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.900 to 86.1280, shall receive **[**each month**]**, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

2. Any member who was retired on or before August 28, 1991, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive **[**each month**]**, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

3. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to a benefit under sections 86.900 to 86.1280 who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits under subsection 2 of this section, and provided

further, that no benefits shall be payable under this section to the surviving spouse of any member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried after the member's death and prior to August 28, 2000. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280. Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension which would be received by a surviving spouse if living.

4. Any member who is receiving benefits from the retirement system and who either was retired under the provisions of subdivision (1) of subsection 1 of section 86.1150, or who retired before August 28, 2001, under the provisions of section 86.1180 or section 86.1200, shall, upon application to the retirement board, be retained as a consultant. For such services such member shall receive each month in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, an equalizing supplemental compensation of ten dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the member's base pension. Each cost-of-living adjustment to compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. For the purposes of this subsection, the term "member" shall include a surviving spouse entitled to benefits under the provisions of sections 86.900 to 86.1280, and who is the surviving spouse of a member who qualified, or would have qualified if living, for compensation under this subsection. Such surviving spouse shall, upon application to the retirement board, be retained as a consultant, and for such services shall be compensated in an amount equal to the compensation which would have been received by the member under this subsection, if living. Any such surviving spouse of a member who dies while entitled to payments under this subsection shall succeed to the full amount of payment under this subsection to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this subsection prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

5. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death prior to August 28, 2007, of a member in service, and who is receiving benefits from the retirement system, shall, upon application to the retirement board, be retained as a consultant, and for such services such surviving spouse shall receive each month an equalizing supplemental compensation of ten dollars per month. A surviving spouse entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death of a member in service on or after August 28, 2007, shall receive each month an equalizing supplemental benefit of ten dollars per month. All benefits payable to a surviving spouse under this subsection shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280 and shall in no way have the effect of reducing benefits otherwise payable to such surviving spouse. The amount of equalizing supplemental benefit or equalizing supplemental compensation under this subsection may be

adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental benefit or compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the base pension of the surviving spouse. Each cost-of-living adjustment to an equalizing supplemental benefit or compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. In all events the term "surviving spouse" as used in this subsection shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

6. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any benefit or compensation under this section for any member.

7. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, any benefit or compensation payments provided under this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

86.1240. PENSIONS OF SPOUSES OF DECEASED MEMBERS — SURVIVING SPOUSE TO BE APPOINTED AS CONSULTANT TO BOARD, WHEN. — 1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection **[**7**] 6** of this section, a base pension equal to forty percent of the final compensation of such member, subject to adjustments, if any, as provided in section 86.1220.

2. (1) Upon receipt of the proper proofs of death of a member who was retired or terminated service after August 28, 1999, and died after **[**commencement of benefits to such member**] having become entitled to benefits** from this retirement system, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection **[**7**] 6** of this section, a base pension equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.1220. The pension provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

(2) (a) Upon receipt of the proper proof of death of a member who retired or terminated service on or before August 28, 1999, and who died after August 28, 1999, and after **[**commencement of benefits to such member**] having become entitled to benefits** from this retirement system, such member's surviving spouse, if any, shall be entitled to a base pension equal to forty percent of the final compensation of such member.

(b) Such a surviving spouse shall, upon application to the retirement board, be appointed by the retirement board as a consultant and be compensated in an amount equal to the benefits such spouse would receive under subdivision (1) of this subsection if the member had retired or terminated service after August 28, 1999.

(c) The benefits provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

3. In the case of any member who, prior to August 28, 2000, died in service or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for

remarriage, and who has not remarried prior to August 28, 2000, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.900 to 86.1280 in the absence of such remarriage.

4. **[**For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount thereof established, regardless of whether the member has received the initial payment of such benefit.

5.**]** Upon the death of any member who is in service after August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse's benefit provided under this section, without including any supplemental retirement benefits paid such surviving spouse by this retirement system, shall be six hundred dollars per month. For any member who died, retired or terminated service on or before August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse shall upon application to the retirement board be appointed by the retirement board as a consultant. For services as such consultant, the surviving spouse shall, beginning the later of August 28, 2000, or the time the appointment is made under this subsection, be compensated in an amount which without including supplemental retirement benefits provided by this system shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly.

[6.**]** **5.** A surviving spouse who is entitled to benefits under the provisions of subsection 1 of this section as a result of the death on or before August 28, 2009, of a member in service who is receiving benefits under sections 86.900 to 86.1280 and who does not qualify under the provisions of subsection **[**5**]** **4** of this section shall, upon application to the retirement board, be appointed as a consultant, and for such services such surviving spouse shall be compensated in an amount which, without including any supplemental retirement benefits provided by sections 86.900 to 86.1280, shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such surviving spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly. As used in this subsection, "surviving spouse" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

[7.**]** **6.** Any beneficiary of benefits under sections 86.900 to 86.1280 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member.

86.1250. PENSIONS OF CHILDREN OF DECEASED MEMBERS. — 1. (1) Upon the death of a member in service or after retirement **[**and commencement of benefits**]**, such member's child or children under the age of eighteen years at the time of the member's death shall be paid fifty dollars per month each until he or she shall attain the age of eighteen years; however, each such child who is or becomes a full-time student at an accredited educational institution shall continue

to receive payments under this section for so long as such child shall remain such a full-time student or shall be in a summer or other vacation period scheduled by the institution with intent by such child, demonstrated to the satisfaction of the retirement board, to return to such full-time student status upon the resumption of the institution's classes following such vacation period, but in no event shall such payments be continued after such child shall attain the age of twenty-one years except as hereinafter provided.

(2) Any child eighteen years of age or older, who is physically or mentally incapacitated from wage earning, so long as such incapacity exists as certified by a member of the medical board, shall be entitled to the same benefits as a child under the age of eighteen. For purposes of this section, a determination of whether a child of a member is physically or mentally incapacitated from wage earning so that the child is entitled to benefits under this section shall be made at the time of the member's death. If a child becomes incapacitated after the member's death, or if a child's incapacity existing at the member's death is removed and such child later becomes incapacitated again, such child shall not be entitled to benefits as an incapacitated child under the provisions of this section. A child shall be deemed incapacitated only for so long as the incapacity existing at the time of the member's death continues.

(3) Notwithstanding any other law to the contrary, amounts payable under subdivision (1) or (2) of this subsection shall not be subject to offset or reduction by amounts paid or payable under any workers' compensation or similar law.

2. Upon or after the death of a member in service or after retirement **[**and commencement of**] with entitlement to** benefits, if there is no surviving spouse or if a surviving spouse dies, the total amount, including any amounts receivable as consulting compensation, but not including any supplemental benefits under section 86.1230, which would be received by a qualified surviving spouse or which is being received by the surviving spouse at the date of death of such surviving spouse shall be added to the amounts received by and shall be divided among the children of such member under the age of eighteen years and the incapacitated children in equal shares. As each such child attains the age of eighteen years or has such incapacity removed, such total amount shall then be divided among the remaining such children, until there is no remaining child of such member under the age of eighteen years or incapacitated, at which time all benefits for children of such member under this subsection shall cease.

3. Upon the death of a member in service or after retirement **[**and commencement of benefits**]**, a funeral benefit of one thousand dollars shall be paid to the person or entity who provided or paid for the funeral services for such member.

[4. If no benefits are otherwise payable to a surviving spouse or child of a deceased member, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse or child of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount established, regardless of whether the member has received the initial payment of such benefit.**]**

86.1310. DEFINITIONS. — The following words and phrases as used in sections 86.1310 to 86.1640 shall have the following meanings unless a different meaning is plainly required by the context:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary for the purchase of prior service credits or any other purpose permitted under sections 86.1310 to 86.1640, in all cases with interest**, if any,** thereon at a rate determined from time to time for such purpose by the retirement board;

(2) **"Actuarial cost", the present value of a future payment or series of payments as calculated by applying the actuarial assumptions established according to subsection 8 of section 86.1630;**

(3) "Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.1310 to 86.1640;

[(3)**] (4)** "Board of police commissioners", the board composed of police commissioners authorized by law to employ and manage an organized police force in the cities;

[(4)**] (5)** "City" or "cities", any city which now has or may hereafter have a population of more than three hundred thousand and less than seven hundred thousand inhabitants, or any city that has made an election under section 86.1320 to continue a civilian employees' retirement system theretofore maintained under sections 86.1310 to 86.1640;

[(5)**] (6)** "Compensation", the basic wage or salary paid a member for any period, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

[(6)**] (7)** "Consultant", unless otherwise specifically defined, means a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, upon request of the retirement board, shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be needed by the board;

[(7)**] (8)** "Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.1310 to 86.1640 by meeting the requirements specified in such sections, or section 105.691;

[(8)**] (9)** "Employee", any regularly appointed civilian employee of the police department of the city as specified in sections 86.1310 to 86.1640 who is**:**

(a) Appointed prior to August 28, 2011, and is not eligible to receive a pension from the police retirement system of said city;

(b) Appointed on or after August 28, 2011, and is not eligible to receive a pension from the police retirement system of such city or from any other retirement or pension system of such city;

[(9)**] (10)** "Final compensation", the average annual compensation of a member during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;

[(10)**] (11)** "Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;

[(11)**] (12)** "Medical board", not less than one nor more than three physicians appointed by the retirement board to arrange for and conduct medical examinations as directed by the retirement board;

[(12)**] (13)** "Member", a member of the civilian employees' retirement system as described in section 86.1480;

[(13)**] (14)** "Pension", annual payments for life, payable monthly, **[**beginning with the date of retirement or other applicable commencement date and ending with death**] at the times described in section 86.1420**;

[(14)**] (15)** "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.1310 to 86.1640 and by the members of the civilian employees' retirement system;

[(15)**] (16)** "Retirement", termination of a member's status as an employee of the police department of the city at a time when the member or the member's beneficiary is immediately entitled to one or more benefits under sections 86.1310 to 86.1640;

[(16)**] (17)** "Retirement board" or "board", the board provided in section 86.1330 to administer the retirement system;

[(17)**] (18)** "Retirement system", the civilian employees' retirement system of the police department of the cities as defined in section 86.1320;

[(18)**] (19)** "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.1310 to 86.1640 by reason of surviving a member, shall include only:

(a) The person who was married to the member at the time of the member's death in service prior to August 28, 2001, and who had not remarried prior to August 28, 2001;

(b) The person who was married to the member at the time of the member's death in service on or after August 28, 2001;

(c) In the case of any member who both retired and died prior to August 28, 2001, the person who was married to the member at the time of the member's death and who had not remarried prior to August 28, 2001;

(d) In the case of any member who retired prior to August 28, 2001, and died on or after that date, the person who was married to the member at the time of the member's death; or

(e) In the case of any member who retired on or after August 28, 2001, the person who was married to the member at both the time of the member's retirement and the time of the member's death.

86.1420. BENEFITS AND ADMINISTRATIVE EXPENSES TO BE PAID BY SYSTEM FUNDS — COMMENCEMENT OF BASE PENSION, WHEN — DEATH OF MEMBER, EFFECT OF. — 1. All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system.

2. The base pension of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a base pension under sections 86.1310 to 86.1640 shall commence as of the first day of the month next following such retirement or termination with no proration of such pension for the month in which such retirement or termination occurs. The supplemental retirement benefit of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a supplemental retirement benefit provided in subsection 1 of section 86.1600 shall commence as of the first day of the month next following such retirement or termination with no proration of such supplemental retirement benefit for the month in which such retirement or termination occurs.

3. Upon the death of a member in service who leaves a surviving spouse, as defined in section 86.1310, entitled to benefits, any base pension which such surviving spouse shall elect under subdivision (2) of subsection 1 of section 86.1610 or under paragraph (b) of subdivision (3) of subsection 1 of section 86.1610 shall commence the later of the first day of the month next following such death or the first day of the month following the date which would have been the member's earliest possible retirement date permitted under subsection 2 of section 86.1540 with no proration of such pension for the month prior to such commencement date. Any base pension which such surviving spouse shall elect under paragraph (c) of subdivision (3) of subsection 1 of section 86.1610 shall commence the first day of the month next following such death with no proration of such pension for the month prior to such commencement date.

4. Upon the death of a member who is receiving a base pension under sections 86.1310 to 86.1640 leaving a surviving spouse, as defined in section 86.1310, entitled to benefits, the pension of such surviving spouse shall commence on the first day of the month next following such death with no proration for the month in which such death occurs.

5. All payments of any benefit shall be paid on the first business day of each month for that month. For any benefit under sections 86.1310 to 86.1640, the retirement system shall withhold payment of such benefit until all requisite documentation has been filed

with the retirement system evidencing the entitlement of the payee to such payment. The final payment due to a retired member shall be the payment due on the first day of the month in which such member's death occurs. The final payment due to any surviving spouse shall be the payment due on the first day of the month in which such surviving spouse dies or otherwise ceases to be entitled to benefits under sections 86.1310 to 86.1640.

6. If no benefits are otherwise payable to a surviving spouse of a deceased member or otherwise as provided in this section, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse of such member or otherwise as provided in this section, shall be paid in one lump sum to the member's beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, and if no beneficiary is named, then to such member's estate. Such payment shall constitute full and final payment of any and all claims for benefits under the retirement system, except as provided in section 86.1620.

86.1480. WHO SHALL BE MEMBERS. — 1. Every person who becomes an employee, as defined in subdivision **[**(8)**] (9)** of section 86.1310, after August 28, 2001, shall become a member of the retirement system defined in sections 86.1310 to 86.1640 as a condition of such employment.

2. Every person who was a member of the retirement system on or before August 28, 2001, shall remain a member.

3. Every person who was an employee, as defined in subdivision **[**(8)**] (9)** of section 86.1310, on August 28, 2001, but was not a member, shall become a member as a condition of employment upon the completion of six months' continuous employment.

86.1490. CREDITABLE SERVICE, DETERMINATION OF — INCLUSIONS AND EXCLUSIONS. — 1. **The retirement board shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service. In no case shall more than one year of service be creditable for all service rendered in one calendar year. The retirement board shall not allow credit as service for any period during which the member was absent without compensation, except as provided in subsection 3 of this section and subsection 3 of section 86.1500.**

2. Except as provided in subsection 3 of section 86.1500, creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member **[**for which such member received compensation**]** since such member last became a member.

3. Except as provided in subsection 3 of section 86.1500, if a member is on leave of absence without compensation, such member shall not receive service credits for such time unless such member shall return to active service and purchase such creditable service at the actuarial cost. The actuarial cost shall be determined at the time the member makes such purchase.

[2.**] 4.** Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.1310 to 86.1640.

[3.**] 5.** Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1400 or from the city under section 86.1390 for such time.

86.1500. MILITARY SERVICE, EFFECT ON CREDITABLE SERVICE — ELECTION TO PURCHASE CREDITABLE SERVICE, WHEN — SERVICE CREDIT FOR MILITARY SERVICE, WHEN. — 1. Whenever a member is given a leave of absence for military service and returns to

employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Except as provided in subsection 3 of this section, a member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial **[**value**] cost** of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. **[**The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system.**]** Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is determined by the retirement board to be totally and permanently disabled as provided in section 86.1560.

3. Notwithstanding any other provision of sections 86.1310 to 86.1640, a member who is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations, and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code, relating to employment and reemployment rights of members of the uniformed services by meeting the requirements for such rights and benefits under Section 4312 of said chapter, or the corresponding provisions of any subsequent applicable **[**U.S.**] federal** statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.1310 to 86.1640 and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of such service to be included in the calculation of such member's compensation for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence.

86.1510. MEMBERS ENTITLED TO PRIOR CREDITABLE SERVICE, WHEN. — Members who terminate membership with three years or more of creditable service and later return to membership may be given credit toward retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the **[**accumulated

contributions which had been paid to such member upon the prior termination. Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest equal to the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes**] member's portion of the actuarial cost to restore such service. The member's portion of the actuarial cost is determined on the ratio of the member's contribution rate to the total of the member and employer contribution rates at the time the member elects to purchase the creditable service**.

86.1540. NORMAL PENSION, AMOUNT — EARLY RETIREMENT OPTION, WHEN — ELECTION FOR OPTIONAL BENEFIT FOR SPOUSE — PENSION AFTER FIVE YEARS OF CREDITABLE SERVICE — FELONY CONVICTION, EFFECT OF. — 1. (1) Upon retirement on or after a member's normal retirement date, such member shall receive a base pension in the amount of two percent of such member's final compensation times the number of years, including fractions thereof, of such member's creditable service.

(2) Such member may elect to receive a different base pension under an election permitted under this section or section 86.1580.

2. Members may elect early retirement as follows:

(1) Beginning at age fifty-five, if the member has completed at least ten years of creditable service or at any later age after the member has completed at least ten years of creditable service. Unless subdivision (3) of this subsection shall be applicable, the benefit as computed under subsection 1 of this section shall be reduced by one-half of one percent for each **full** month the **[**effective date**] initial payment** is prior to the first day of the month following that in which such member will attain age sixty;

(2) Beginning at age sixty, if the member has completed at least five but not more than ten years of creditable service or at any later age after the member has completed at least five years of creditable service. Unless subdivision (3) of this subsection shall be applicable, the benefit as computed under subsection 1 of this section shall be reduced by one-half of one percent for each **full** month the **[**effective date**] initial payment** is prior to the first day of the month following that in which such member will attain age sixty-five; or

(3) At any time after the member's total of age and years of creditable service equals or exceeds eighty, in which event the benefit shall be as computed under subsection 1 of this section without any reduction. If an election for early retirement results in a reduced benefit under subdivision (1) or (2) of this subsection, such reduced benefit shall become the member's base pension, subject to all other adjustments described in this section.

3. (1) A member who is married at the time of retirement may by a written election, with the written consent of such member's spouse, elect an optional benefit calculated as follows: such optional benefit shall be a monthly pension in the initial amount which shall be actuarially equivalent to the actuarial value of the pension described in subdivision (1) of subsection 1 of this section for such member at the date of retirement (including the value of survivorship rights of a surviving spouse, where applicable, under section 86.1610), upon the basis that the initial annuity for the member's spouse, if such spouse survives the member, shall be the same as the amount being paid the member on such annuity at the member's death, and, subject to cost-of-living adjustments thereafter declared on the spouse's base pension under section 86.1590, shall be paid to such surviving spouse for the lifetime of such spouse without regard to remarriage. If a member who makes an election of an optional benefit under this subsection has also elected an early retirement under either subdivision (1) or (2) of subsection 2 of this section, any reduction in benefit required for such early retirement election shall be calculated before calculating the initial amount of the optional benefit under this subsection.

(2) If a member who makes the election permitted by this subsection also makes an election permitted under section 86.1580, such optional benefit shall be reduced as provided in subdivision (3) of subsection 2 of section 86.1580.

(3) If a member makes the election permitted by this subsection, the amount calculated for such optional benefit under either subdivision (1) or (2) of this subsection shall be the base pension for such member and for such member's spouse for all purposes of sections 86.1310 to 86.1640.

(4) An election for an optional benefit under this subsection shall be void if the member dies within thirty days after filing such election with the retirement system or if the member dies before the due date of the first payment of such member's pension.

4. Subject to the provisions of subsection **[**7**] 6** of this section, whenever the service of a member is terminated after August 28, 1999, for any reason prior to death or retirement and the member has five or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to receive a pension upon such member's normal retirement date under subdivision (1) of subsection 1 of this section or may elect to receive a pension commencing upon or after any date, prior to his or her normal retirement date, upon which early retirement would have been permitted under subsection 2 of this section if such member had remained a civilian employee of such police department, except that in calculating any qualification under subsection 2 of this section, such member shall not be entitled to count any year of creditable service in excess of such member's total years of creditable service at the time of such member's termination of employment. The amount of any pension commenced upon the basis of a date permitted under subsection 2 of this section shall be computed on the basis of the member's final compensation and number of years of creditable service, subject to such adjustments as may be applicable under the subdivision of subsection 2 of this section upon which such member relies in electing **[**the commencement of**]** such member's pension and subject to any other adjustments that such member may elect under this section. The amount of the initial pension calculated after all applicable adjustments shall be the base pension for such member, and for such member's spouse if such member shall elect the optional benefit permitted under subsection 3 of this section, for all purposes of sections 86.1310 to 86.1640. **Payment of any benefits elected under this subsection shall commence as of the first day of the month next following the applicable date with no proration of such benefit for any initial partial month.**

5. A member whose service was terminated on or before August 28, 1999, after five or more years of creditable service, and who permitted such member's accumulated contributions to remain in the pension fund, shall upon application to the retirement board be appointed as a consultant. For services as such consultant, such member shall, beginning the later of August 28, 1999, or the time of such appointment under this subsection, be entitled to elect to receive compensation in such amount and **[**commencing**]** at such time as such member would have been entitled to elect under any of the provisions of subsection 4 of this section if such member had terminated service after August 28, 1999. Such member shall be entitled to the same cost-of-living adjustments following the commencement of such compensation as if such member's compensation had been a base pension.

6. **[**All payments of any pension shall be paid on the first day of each month for that month. The first payment shall be paid on the first day of the first month in which the member's benefit can be determined and processed for payment, and shall include benefits from the date of retirement to the date of such first payment. The final payment due a retired member shall be the payment due on the first day of the month in which such member's death occurs.

7.**]** Notwithstanding any other provisions of sections 86.1310 to 86.1640, any member who is convicted of a felony prior to separation from active service shall not be entitled to any benefit from this retirement system except the return of such member's accumulated contributions.

86.1560. DISABILITY RETIREMENT PENSION, AMOUNT — DEFINITIONS — BOARD TO DETERMINE DISABILITY, PROOF MAY BE REQUIRED. — 1. A member in active service who becomes totally and permanently disabled, as defined in this section, shall be entitled to retire and to receive a base pension determined in accordance with the terms of this section. Members who are eligible and totally and permanently disabled shall receive a disability pension computed as follows:

(1) Duty disability, fifty percent of final compensation as of the date of disability;

(2) Nonduty disability, thirty percent of final compensation as of the date of disability, provided that a nonduty disability pension shall not be available to any member with less than ten years creditable service;

(3) In no event shall the disability pension be less than the amount to which the member would be entitled as a pension if the member retired on the same date with equivalent age and creditable service.

2. **[**The final payment due a member receiving a disability pension shall be the payment due on the first day of the month in which such member's death occurs. Such member's surviving spouse, if any, shall be entitled to such benefits as may be provided under section 86.1610.

3.**]** For purposes of sections 86.1310 to 86.1640, the following terms shall mean:

(1) "Duty disability", total and permanent disability directly due to and caused by actual performance of employment with the police department;

(2) "Nonduty disability", total and permanent disability arising from any other cause than duty disability;

(3) "Total and permanent disability", a state or condition which presumably prevents for the rest of a member's life the member's engaging in any occupation or performing any work for remuneration or profit. Such disability, whether duty or nonduty, must not have been caused by the member's own negligence or willful self-infliction.

[4.**] 3.** The retirement board in its sole judgment shall determine whether the status of total and permanent disability exists. Its determination shall be binding and conclusive. The retirement board shall rely upon the findings of a medical board of three physicians, and shall procure the written recommendation of at least one member thereof in each case considered by the retirement board. The medical board shall be appointed by the retirement board and expense for such examinations as are required shall be paid from funds of the retirement system.

[5.**] 4.** From time to time, the retirement board shall have the right to require proof of continuing disability which may include further examination by the medical board. Should the retirement board determine that disability no longer exists, it shall terminate the disability pension. A member who immediately returns to work with the police department shall again earn creditable service beginning on the first day of such return. Creditable service prior to disability retirement shall be reinstated. A member who does not return to work with the police department shall be deemed to have terminated employment at the time disability retirement commenced; but in calculating any benefits due upon such presumption, the retirement system shall receive credit for all amounts paid such member during the period of disability, except that such member shall not be obligated in any event to repay to the retirement system any amounts properly paid during such period of disability.

86.1600. SUPPLEMENTAL RETIREMENT BENEFIT, AMOUNT, COST-OF-LIVING ADJUSTMENTS — SPECIAL CONSULTANT, COMPENSATION — COST-OF-LIVING ADJUSTMENTS, RULEMAKING AUTHORITY — MEMBER DEFINED. — 1. Any member who retires subsequent to August 28, 1997, and on or before August 28, 2007, with entitlement to a pension under sections 86.1310 to 86.1640, and any member who retires subsequent to August 28, 2007, with entitlement to a pension under sections 86.1310 to 86.1640 and who either has at least fifteen years of creditable service or is retired under subsection 1 of section 86.1560, shall receive **[**each month**]**, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which

such member may be entitled under sections 86.1310 to 86.1640, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

2. Any member who was retired on or before August 28, 1997, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive **[**each month**]**, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.1310 to 86.1640, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

3. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any supplemental retirement benefit or any supplemental compensation under this section for any member.

4. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse who is entitled to a benefit under sections 86.1310 to 86.1640, who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that no benefits shall be payable under this section to the surviving spouse of any member who died while in active service after August 28, 2007, unless such death occurred in the line of duty or course of employment or as the result of an injury or illness incurred in the line of duty or course of employment or unless such member had at least fifteen years of creditable service. The surviving spouse of a member who died in service after August 28, 2007, whose death occurred in the line of duty or course of employment or as the result of an injury or illness incurred in the line of duty or course of employment shall be entitled to benefits under subsection 1 of this section without regard to such member's years of creditable service. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.1310 to 86.1640. Any qualifying surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death.

5. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, supplemental retirement benefit payments under subsection 1 of this section and supplemental compensation payments as a consultant under subsection 2 of this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

86.1610. DEATH OF MEMBER IN SERVICE, BENEFIT TO BE RECEIVED — DEATH OF MEMBER AFTER RETIREMENT, BENEFIT TO BE RECEIVED — SURVIVING SPOUSE BENEFITS.

— 1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, the following amounts shall be payable subject to subsection 4 of this section, and if a pension shall be elected, the initial amount thereof shall be the base pension for such surviving spouse:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in one lump sum, the amount of the member's accumulated contributions. If there is no surviving spouse, the member's accumulated contributions shall be paid **[**to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate, and such payment shall be full and final settlement for all amounts due from the retirement system with respect to such member except as provided in subsection 1 of section 86.1620**] as provided in subsection 6 of section 86.1420**;

(2) If the member has at least five but fewer than twenty years of creditable service, the member's surviving spouse may elect the lump sum settlement in subdivision (1) of this subsection or a pension. Such pension shall be fifty percent of the member's accrued pension at date of death as computed in subdivision (1) of subsection 1 of section 86.1540, commencing **[**on the later of the day after the member's death, or the date which would have been the member's earliest possible retirement date permitted under subsection 2 of section 86.1540**] as provided in subsection 3 of section 86.1420**;

(3) If the member has at least twenty years of creditable service, the member's surviving spouse may elect any one of:

(a) The lump sum settlement in subdivision (1) of this subsection;

(b) The pension as computed in subdivision (2) of this subsection; or

(c) A pension in the monthly amount determined on a joint and survivor's basis from the actuarial value of the member's accrued annuity at date of death;

(4) Any death of a retired member occurring before the first payment of the retirement pension shall be deemed to be a death prior to retirement;

(5) For the surviving spouse of a member who died in service after August 28, 2001, benefits payable under subsection 1 of this section shall continue for the lifetime of such surviving spouse without regard to remarriage.

2. Upon death of a member after retirement who has not elected the optional annuity permitted under subsection 3 of section 86.1540, the surviving spouse shall receive a base pension payable for life, equaling fifty percent of the member's base pension, as of the member's retirement date, subject to the following:

(1) No surviving spouse of a member who retires after August 28, 2001, shall be entitled to receive any benefits under sections 86.1310 to 86.1640 unless such spouse was married to the member at the time of the member's retirement; and

(2) Any surviving spouse who was married to such a member at the time of the member's retirement shall be entitled to all benefits for surviving spouses under sections 86.1310 to 86.1640 for the life of such surviving spouse without regard to remarriage.

3. In the case of any member who, prior to August 28, 2001, died in service or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for remarriage, and has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.1310 to 86.1640 in the absence of such remarriage.

4. Any beneficiary of benefits under sections 86.1310 to 86.1640 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member, except that any surviving spouse for whom an election has been made for an optional benefit under subsection 3 of section 86.1540 shall be entitled to every optional benefit for which such surviving spouse has so contracted.

[5. The final payment due any surviving beneficiary shall be the payment due on the first day of the month in which such beneficiary dies or otherwise ceases to be entitled to benefits under this section.

6. If there is no surviving spouse, payment of the member's accumulated contributions less the amount of any prior payments from the retirement system to the member or to any beneficiary of the member shall be made to the member's designated beneficiary or, if none, to the personal representative of the member's estate.**]**

86.1620. FUNERAL BENEFITS, AMOUNT. — 1. **[**(1)**]** Upon the death after August 28, 2003, of a member in service, or upon the death of a member who was in service on or after August 28, 2003, and who dies after having been retired and pensioned, there shall be paid, in addition to all other benefits, a funeral benefit of one thousand dollars to the person or entity who provided or paid for the funeral services for such member.

[(2)**] 2.** Any member who was retired on or before August 28, 2003, and is receiving retirement benefits from the retirement system, upon application to the retirement board, shall be appointed by the retirement board as a consultant for the remainder of such member's life. Upon the death of such member, there shall be paid, in addition to all other benefits, a funeral benefit of one thousand dollars to the person or entity who provided or paid for the funeral services for such member.

[2. If no benefits are otherwise payable to a surviving spouse of a deceased member, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.**]**

Approved July 8, 2011

HB 186 [SCS HB 186]

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 county officers

AN ACT to repeal section 51.050, RSMo, and to enact in lieu thereof three new sections relating to county officers.

SECTION

A. Enacting clause.
51.050. Qualifications.
59.021. Qualifications when offices of clerk of the court and recorder of deeds are separate.
59.022. Vacancy when offices of clerk of the court and recorder of deeds are separate, how filled.

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

SECTION A. ENACTING CLAUSE. — Section 51.050, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 51.050, 59.021, and 59.022, to read as follows:

51.050. QUALIFICATIONS. — No person shall be elected or appointed clerk of the county commission unless **[**he**] such person** be a citizen of the United States, over the age of twenty-one years, and shall have resided within the state one whole year, and within the county for

which **[**he**]** **the person** is elected **[**six months**]** **one year** just prior to **[**his**]** **such person's** election; and every clerk shall after **[**his**]** **the** election continue to reside within the county for which **[**he**]** **such person** is clerk.

59.021. QUALIFICATIONS WHEN OFFICES OF CLERK OF THE COURT AND RECORDER OF DEEDS ARE SEPARATE. — A candidate for county recorder where the offices of the clerk of the court and recorder of deeds are separate, except in any city not within a county or any county having a charter form of government, shall be at least twenty-one years of age, a registered voter, and a resident of the state of Missouri as well as the county, in which he or she is a candidate for at least one year prior to the date of the general election. Upon election to office, the person shall continue to reside in that county during his or her tenure in office.

59.022. VACANCY WHEN OFFICES OF CLERK OF THE COURT AND RECORDER OF DEEDS ARE SEPARATE, HOW FILLED. — In the event of a vacancy caused by death or resignation in the office of county recorder where the offices of the clerk of the court and recorder of deeds are separate, except in any city not within a county or any county with a charter form of government, the county commission shall appoint a deputy recorder or a qualified person to serve as an interim recorder of deeds until the unexpired term is filled under section 105.030.

Approved July 7, 2011

HB 190 [HB 190]

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 divisions within the Department of Natural Resources to receive funds to be placed in a revolving fund for the purpose of cash transactions involving the sale of items made by the divisions

AN ACT to repeal section 253.082, RSMo, and to enact in lieu thereof three new sections relating to cash transactions by the department of natural resources.

SECTION

A. Enacting clause.
253.082. Fund established for each facility head at state parks and scenic sites — purpose of fund — limitation, rules — revolving fund for sale of Division of State Parks items established..
256.055. Revolving fund for cash transactions involving the sale of Division of Geology and Land Survey items established.
640.045. Revolving fund for cash transactions for sale of items made by Department of Natural Resources divisions established.

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

SECTION A. ENACTING CLAUSE. — Section 253.082, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 253.082, 256.055, and 640.045, to read as follows:

253.082. FUND ESTABLISHED FOR EACH FACILITY HEAD AT STATE PARKS AND SCENIC SITES — PURPOSE OF FUND — LIMITATION, RULES — REVOLVING FUND FOR SALE OF DIVISION OF STATE PARKS ITEMS ESTABLISHED.. — 1. Upon a request from the director of

the department of natural resources, the commissioner of administration shall draw a warrant payable to the facility head of each of the state parks and historic sites in an amount to be specified by the director of the department of natural resources, but such amount shall not exceed the sum of one thousand five hundred dollars for each such facility. The sum so specified shall be placed in the hands of the facility head as a revolving fund to be used in the payment of the incidental expenses of the facility for which he has been appointed and for the refund of fees paid by the public. All expenditures shall be made in accordance with rules and regulations established by the commissioner of administration.

2. Upon a request from the director of the department of natural resources, the commissioner of administration shall draw a warrant payable to the director of the division of state parks in an amount to be specified by the director of the department of natural resources, but such amount shall not exceed the sum of five hundred dollars. The sum so specified shall be placed in the hands of the director of state parks as a revolving fund to be used in the cash transactions involving the sale of items made by the division of state parks. All transactions shall be made in accordance with rules and regulations established by the commissioner of administration.

256.055. REVOLVING FUND FOR CASH TRANSACTIONS INVOLVING THE SALE OF DIVISION OF GEOLOGY AND LAND SURVEY ITEMS ESTABLISHED. — Upon a request from the director of the department of natural resources, the commissioner of administration shall draw a warrant payable to the director of the division of geology and land survey in an amount to be specified by the director of the department of natural resources, but such amount shall not exceed the sum of five hundred dollars. The sum so specified shall be placed in the hands of the director of the division of geology and land survey as a revolving fund to be used in the cash transactions involving the sale of items made by the division of geology and land survey. All transactions shall be made in accordance with rules and regulations established by the commissioner of administration.

640.045. REVOLVING FUND FOR CASH TRANSACTIONS FOR SALE OF ITEMS MADE BY DEPARTMENT OF NATURAL RESOURCES DIVISIONS ESTABLISHED. — Upon a request from the director of the department of natural resources, the commissioner of administration shall draw a warrant payable to any and all of the directors of the various divisions of the department in amounts to be specified by the director of the department of natural resources, but such amounts shall not exceed the sum of five hundred dollars each. The sum so specified shall be placed in the hands of the director of the relevant division as a revolving fund to be used in the cash transactions involving the sale of items made by that division. All transactions shall be made in accordance with rules and regulations established by the commissioner of administration.

Approved June 22, 2011

HB 193 [CCS SS HCS HB 193]

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 composition of Congressional districts based on the 2010 census

AN ACT to repeal sections 128.345, 128.346, and 128.348, RSMo, and to enact in lieu thereof eleven new sections relating to the composition of congressional districts.

SECTION

A. Enacting clause.
128.345. Definitions.
128.346. Congressional districts for election of representatives to the U.S. Congress.
128.348. Congressional districts to be established.
128.451. First congressional district (2010 census)
128.452. Second congressional district (2010 census)
128.453. Third congressional district (2010 census)
128.454. Fourth congressional district (2010 census)
128.455. Fifth congressional district (2010 census)
128.456. Sixth congressional district (2010 census)
128.457. Seventh congressional district (2010 census)
128.458. Eighth congressional district (2010 census)
B. Graphical map representation of congressional district boundaries to be published.

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

SECTION A. ENACTING CLAUSE. — Sections 128.345, 128.346, and 128.348, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 128.345, 128.346, 128.348, 128.451, 128.452, 128.453, 128.454, 128.455, 128.456, 128.457, and 128.458, to read as follows:

128.345. DEFINITIONS. — All references in sections **[**128.400 to 128.440**] 128.451 to 128.458** to counties, voting districts (VTD), and tract-blocks **[**(BLK)**] (Block)** mean those counties, voting districts (VTD), and tract-blocks **[**(BLK)**] (Block)** as reported to the state by the United States Bureau of the Census for the **[**2000**] 2010** census.

128.346. CONGRESSIONAL DISTRICTS FOR ELECTION OF REPRESENTATIVES TO THE U.S. CONGRESS. — The districts established by the provisions of sections 128.400 to 128.440 for the election of representatives to the Congress of the United States shall be effective beginning with election to the 108th Congress **and through the election of the 112th Congress. The districts established by sections 128.451 to 128.458 for the election of representatives to the Congress of the United States shall be effective beginning with the election to the 113th Congress**.

128.348. CONGRESSIONAL DISTRICTS TO BE ESTABLISHED. — The state of Missouri is hereby divided into nine congressional districts. **Effective with the election for the 113th Congress, the state of Missouri shall consist of eight congressional districts.** The legal voters of each district shall elect one member of Congress of the United States.

128.451. FIRST CONGRESSIONAL DISTRICT (2010 CENSUS) — The first congressional district shall be composed of the following:

St. Louis City MO County
St. Louis MO County (part)
VTD: AP001
VTD: AP002
VTD: AP003
VTD: AP004
VTD: AP005
VTD: AP006
VTD: AP007
VTD: AP008
VTD: AP009
VTD: AP010
VTD: AP011

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VTD: AP200
VTD: AP203
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VTD: AP227
VTD: AP228
VTD: AP230
VTD: AP232
VTD: AP233
VTD: AP237
VTD: CC012
VTD: CC013
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VTD: CC019
VTD: CC020
VTD: CC021
VTD: CC022
VTD: CC025
VTD: CC026
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VTD: CC030
VTD: CC034
VTD: CC038
VTD: CC039
VTD: CC040
VTD: CC043
VTD: CC046
VTD: CC048
VTD: CC057
VTD: CC058 (part)
Block: 291892156001056
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VTD: CC203
VTD: CC205
VTD: CC207
VTD: CC208
VTD: CC224
VTD: CC225
VTD: CLA001
VTD: CLA005
VTD: CLA011 (part)

Block: 291892158002018
Block: 291892158006012
Block: 291892158006015
Block: 291892158006016
VTD: CLA021
VTD: CLA022
VTD: CLA052
VTD: CLA054
VTD: CLA056
VTD: FER001
VTD: FER002
VTD: FER003
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VTD: FER006
VTD: FER007
VTD: FER008
VTD: FER009
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VTD: FLO200
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VTD: HAD001
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VTD: JEF013
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VTD: JEF047
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VTD: LC001
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VTD: LC200
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VTD: LEM007
VTD: LEM009
VTD: LEM010
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VTD: LEM200
VTD: LEM201
VTD: LEM202
VTD: MHT014

VTD: MHT017
VTD: MHT018 (part)
Block: 291892132022002
Block: 291892132022003
VTD: MHT029 (part)
Block: 291892151423009
Block: 291892151423011
Block: 291892151423012
VTD: MHT032
VTD: MHT041
VTD: MHT046
VTD: MHT201
VTD: MHT202
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VTD: NOR222
VTD: NRW001
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VTD: NRW048
VTD: NRW200
VTD: NRW201
VTD: NW002
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VTD: NW225
VTD: NW226
VTD: NW227
VTD: NW229
VTD: NW231
VTD: SF001
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VTD: SF206
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VTD: SPL201
VTD: SPL202
VTD: SPL207
VTD: SPL208
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VTD: UNV007
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VTD: UNV026
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VTD: UNV046
VTD: UNV047
VTD: UNV048
VTD: UNV049
VTD: UNV200
VTD: UNV201
VTD: UNV205
VTD: UNV206
VTD: UNV208

128.452. SECOND CONGRESSIONAL DISTRICT (2010 CENSUS) — The second congressional district shall be composed of the following:
Jefferson MO County (part)
VTD: Arnold No. 1
VTD: Arnold No. 2 (part)
Block: 290997001101038
Block: 290997001101039
Block: 290997001101040
Block: 290997001101041
Block: 290997001101043
Block: 290997001101044
Block: 290997001101045
Block: 290997001101046
Block: 290997001101047
Block: 290997001101048
Block: 290997001101049
Block: 290997001101053
Block: 290997001103015
Block: 290997001103016
Block: 290997001103018
Block: 290997001103019
Block: 290997001103020
Block: 290997001103021
Block: 290997001103024
Block: 290997001103025
Block: 290997001103026
Block: 290997001103027
Block: 290997001103030
Block: 290997001103031
Block: 290997001132000
Block: 290997001132001
Block: 290997001132004
Block: 290997001132005
Block: 290997001132006
Block: 290997001132029
Block: 290997001141000

Block: 290997001141001
Block: 290997001141002
Block: 290997001141003
Block: 290997001141006
Block: 290997001141007
Block: 290997001141008
Block: 290997001141009
Block: 290997001141010
Block: 290997001141011
Block: 290997001141012
Block: 290997001141013
Block: 290997001141018
Block: 290997001141092
Block: 290997001151000
Block: 290997001151001
Block: 290997001151002
Block: 290997001151003
Block: 290997001151004
Block: 290997001151006
Block: 290997001151007
Block: 290997001151008
Block: 290997001151009
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Block: 290997001151011
Block: 290997001151012
Block: 290997001151013
Block: 290997001151014
Block: 290997001151015
Block: 290997001151016
Block: 290997001151017
Block: 290997001151018
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Block: 290997001152009
Block: 290997001152010
Block: 290997001152030
Block: 290997001152031
Block: 290997001153000
Block: 290997001153001
Block: 290997001153005
Block: 290997001153013
Block: 290997001153028
Block: 290997001153029
Block: 290997001153031
Block: 290997001172000
Block: 290997001172003
Block: 290997001172004
Block: 290997001172011
Block: 290997001172012

Block: 290997001172013
Block: 290997001172014
Block: 290997001172015
Block: 290997001172016
Block: 290997001172017
Block: 290997001172018
Block: 290997001172019
Block: 290997001172020
Block: 290997001172021
Block: 290997001172022
Block: 290997001172023
Block: 290997001172026
Block: 290997001172027
Block: 290997001172028
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Block: 290997001172030
Block: 290997001172031
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Block: 290997001172034
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Block: 290997001172051
Block: 290997001172052
Block: 290997001172053
Block: 290997001173009
Block: 290997001183000
Block: 290997001183001
Block: 290997001183002
Block: 290997001183003
Block: 290997001183005
Block: 290997001183006
Block: 290997001183007
Block: 290997001183008
Block: 290997001183009
Block: 290997001183010
Block: 290997001183011
Block: 290997001183012
Block: 290997001184002
Block: 290997001184009
Block: 290997001184010
Block: 290997001184011
VTD: Arnold No. 3
VTD: Arnold No. 4
VTD: Maxville No. 1 (part)
Block: 290997001131014
VTD: Maxville No. 2 (part)
Block: 290997001132002
Block: 290997001132007
Block: 290997001132008
Block: 290997001132009
Block: 290997001132014

Block: 290997001132015
Block: 290997001132016
Block: 290997001132017
Block: 290997001132018
Block: 290997001132026
Block: 290997001132027
Block: 290997001132028
Block: 290997001132030
Block: 290997001172001
Block: 290997001172054
VTD: Meramec Heights
VTD: Murphy No. 1 (part)
Block: 290997002101014
Block: 290997002101015
Block: 290997002102000
Block: 290997002102016
Block: 290997002102017
Block: 290997002112000
Block: 290997002112001
Block: 290997002112006
Block: 290997002112007
Block: 290997002112008
Block: 290997002112009
Block: 290997002112010
Block: 290997002112011
Block: 290997002112012
Block: 290997002112013
Block: 290997002112014
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Block: 290997003031002
Block: 290997003031003
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Block: 290997003031006
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Block: 290997003031019
Block: 290997003031020
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Block: 290997003032018
Block: 290997003032019
Block: 290997003032020
Block: 290997003032021
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Block: 290997003033000
Block: 290997003033001
Block: 290997003033002
Block: 290997003033003
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Block: 290997003033005
Block: 290997003033006
Block: 290997003033007
Block: 290997003033008
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Block: 290997003033018
Block: 290997003033019
Block: 290997003033020
Block: 290997003033021
Block: 290997003033022
Block: 290997003033023
Block: 290997003041000
Block: 290997003041035
VTD: Murphy No. 2
VTD: Murphy No. 3 (part)
Block: 290997002101023
Block: 290997002101041
Block: 290997002101042
Block: 290997002101045
Block: 290997002101046
Block: 290997002101047
Block: 290997002101048
Block: 290997002101049
Block: 290997002101050
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Block: 290997002101052
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Block: 290997002102014
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Block: 290997002102018
Block: 290997002102019
Block: 290997002102020
Block: 290997002102021
Block: 290997002102022
Block: 290997002112002
Block: 290997002112003
Block: 290997002112004
Block: 290997002112005
Block: 290997002112027
Block: 290997002112028
VTD: Romaine Creek

VTD: Saline
VTD: Springdale
St. Charles MO County (part)
VTD: 015-Washington (part)
Block: 291833110011023
Block: 291833110011024
Block: 291833110011025
Block: 291833110011031
Block: 291833110011032
Block: 291833110011033
Block: 291833110011034
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VTD: 016-Montclair
VTD: 024-Wilshire
VTD: 036-Sun Lake
VTD: 047-Covilli
VTD: 062-Adams (part)
Block: 291833107001010
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VTD: 080-Heritage
VTD: 083-Woodcliff
VTD: 084-Harvester
VTD: 085-Sycamore
VTD: 086-Arlington
VTD: 091-Katy Trail
VTD: 100-McClay
VTD: 101-Graybridge
VTD: 111-Woodstream
VTD: 126-Meadow Valley (part)
Block: 291833113222000
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VTD: 129-Parkwood
VTD: 130-Lakes
VTD: 139-Discovery
VTD: 140-Laura Hill
VTD: 143-All Saints
VTD: 144-Fox
VTD: 146-St. Jude
VTD: 147-Cottleville
VTD: 150-Timberwood
VTD: 152-Woodglen

VTD: 153-Aspen
VTD: 154-Wheatfield
VTD: 155-Green Forest (part)
Block: 291833113121056
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VTD: 170-Starbuck
VTD: 196-Phoenix
VTD: 203-Fieldcrest
VTD: 206-Monticello
VTD: 207-Carriage Hills
VTD: 208-Twin Chimneys
VTD: 211-Summerset
VTD: 212-Canvas Cove
VTD: 215-Coachman
VTD: 218-DuVall
VTD: 219-Westfield
VTD: 220-Pitman
VTD: 221-Weldon Spring
VTD: 227-Whitmoor
VTD: 228-Shoshone
VTD: 230-Claybrook
VTD: 231-Wolfrum
VTD: 234-Windcastle
St. Louis MO County (part)
VTD: AP012
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VTD: QUE201
VTD: QUE202
VTD: QUE204
VTD: QUE209
VTD: QUE210
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VTD: QUE212
VTD: QUE215
VTD: QUE216
VTD: QUE217
VTD: TSF001
VTD: TSF002
VTD: TSF003
VTD: TSF004
VTD: TSF005
VTD: TSF006
VTD: TSF007
VTD: TSF008
VTD: TSF009
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VTD: TSF024
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VTD: TSF026
VTD: TSF027
VTD: TSF028
VTD: TSF029
VTD: TSF030
VTD: TSF031
VTD: TSF032
VTD: TSF207
VTD: TSF208
VTD: WH001
VTD: WH002
VTD: WH003
VTD: WH004
VTD: WH005
VTD: WH006
VTD: WH007
VTD: WH008
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VTD: WH011
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VTD: WH025
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VTD: WH044
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VTD: WH046
VTD: WH047
VTD: WH048
VTD: WH049
VTD: WH050
VTD: WH051
VTD: WH205
VTD: WH208
VTD: WH209
VTD: WH212

128.453. THIRD CONGRESSIONAL DISTRICT (2010 CENSUS) — The third congressional district shall be composed of the following:
Callaway MO County
Camden MO County (part)
VTD: Camdenton 1 (part)
Block: 290299502004068
Block: 290299502004069
Block: 290299502004071
Block: 290299502004072
Block: 290299502004073
Block: 290299502004074
Block: 290299502004076
Block: 290299502004079
Block: 290299502004085
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Block: 290299502004092
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Block: 290299502004094
Block: 290299502004095
Block: 290299502004096
Block: 290299502004097
Block: 290299505002016
Block: 290299505002021
Block: 290299505002039
Block: 290299505002041
Block: 290299505002048
Block: 290299505003000
Block: 290299505003002
Block: 290299505003003
Block: 290299505003004
Block: 290299505003005
Block: 290299505003009
Block: 290299505003010
Block: 290299505003046

Block: 290299506001001
Block: 290299506001002
Block: 290299506001003
Block: 290299506001004
Block: 290299506001005
Block: 290299506001006
Block: 290299506001007
Block: 290299506001008
Block: 290299506001009
Block: 290299506001010
Block: 290299506001011
Block: 290299506001012
Block: 290299506001014
Block: 290299506001037
Block: 290299506001042
Block: 290299506001052
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Block: 290299506001074
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Block: 290299506001078
Block: 290299506001079
Block: 290299506001080
Block: 290299506001081
Block: 290299506001082
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Block: 290299506001084
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Block: 290299506001086
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Block: 290299506001098
Block: 290299506001102
Block: 290299506001106
Block: 290299506001107
Block: 290299506001108
Block: 290299506001109
Block: 290299506001112
Block: 290299506001114
Block: 290299506001115
Block: 290299506002049
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Block: 290299506002094
Block: 290299506002096
Block: 290299506002097
Block: 290299506002098
Block: 290299506002100
Block: 290299506002166
Block: 290299506002167
Block: 290299506002168
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Block: 290299506002172
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Block: 290299506002179
Block: 290299506002180
Block: 290299506002181
Block: 290299506002182
Block: 290299506002183
Block: 290299506002204
Block: 290299506002206
Block: 290299506002207
Block: 290299508005000

Block: 290299508005001
Block: 290299508005002
Block: 290299508005062
Block: 290299508005063
Block: 290299508005066
Block: 290299508005067
Block: 290299508005068
Block: 290299508005069
Block: 290299509001016
Block: 290299509001017
Block: 290299509001021
Block: 290299509001022
Block: 290299509001118
VTD: Camdenton 2
VTD: Camdenton 3 (part)
Block: 290299504001004
Block: 290299504001005
Block: 290299504001006
Block: 290299504001007
Block: 290299504001008
Block: 290299504001009
Block: 290299504001010
Block: 290299504001050
Block: 290299504001051
Block: 290299504001052
Block: 290299504001053
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Block: 290299504001078
Block: 290299504001079
Block: 290299504001080
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Block: 290299504001088
Block: 290299504001089
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Block: 290299504001091
Block: 290299504001092
Block: 290299504001093
Block: 290299505001000
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Block: 290299505001002
Block: 290299505001003
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Block: 290299505001005
Block: 290299505001006
Block: 290299505001007
Block: 290299505001008
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Block: 290299505001024
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Block: 290299505001038
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Block: 290299505001054
Block: 290299505001055
Block: 290299505001056
Block: 290299505001057
Block: 290299505002000
Block: 290299505002001
Block: 290299505002002
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Block: 290299505002011
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Block: 290299505002014
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Block: 290299505002037
Block: 290299505002044
Block: 290299505002045
Block: 290299505002049
Block: 290299505002050
Block: 290299505002052
Block: 290299505002061
Block: 290299505002062
Block: 290299505002066
VTD: Freedom

VTD: Horseshoe Bend
VTD: Linn Creek
VTD: Osage Beach 1
VTD: Osage Beach 2
VTD: Osage Beach 3
VTD: Sunrise Beach 1
VTD: Sunrise Beach 2 (part)
Block: 290299511002044
Block: 290299512002032
Block: 290299512002033
Block: 290299512002042
Block: 290299512002103
Block: 290299512002114
Block: 290299512002115
Block: 290299512002116
Block: 290299512002159
Block: 290299512002171
Block: 290299512002174
VTD: Sunrise Beach 3 (part)
Block: 290299511001159
Block: 290299511002009
Block: 290299511002010
Block: 290299511002011
Block: 290299511002012
Block: 290299511002013
Block: 290299511002014
Block: 290299511002015
Block: 290299511002016
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Block: 290299511002018
Block: 290299511002022
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Block: 290299511002098
Block: 290299511002099
Block: 290299511002100
Block: 290299511002101
Block: 290299511002102
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Block: 290299511002110
Block: 290299511002111
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Block: 290299511002118
Block: 290299511002119
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Block: 290299511002201
Block: 290299511002202
Block: 290299511002203
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Block: 290299511002207
Block: 290299511002208
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Block: 290299511002210
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Block: 290299511002212
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Block: 290299511002216
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Block: 290299511002219
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Block: 290299511002221
Block: 290299511002222
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Block: 290299512002014
Block: 290299512002015
Block: 290299512002016
Block: 290299512002017
Block: 290299512002018
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Block: 290299512002020
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Block: 290299512002067
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Block: 290299512002136
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Block: 290299512002139
Block: 290299512002140
Block: 290299512002160
Block: 290299512002161
Block: 290299512002170
Block: 290299512002175
Block: 290299512002179
Block: 290299512002180
Cole MO County
Franklin MO County
Gasconade MO County
Jefferson MO County (part)
VTD: Antonia No. 1
VTD: Antonia No. 2
VTD: Arnold No. 2 (part)
Block: 290997001103017
Block: 290997001103022
Block: 290997001103023
Block: 290997001152032
Block: 290997001172037
VTD: Barnhart No. 1
VTD: Barnhart No. 2
VTD: Byrnes Mill Ward 1
VTD: Byrnes Mill Ward 2
VTD: Byrnes Mill Ward 3
VTD: Byrnesville
VTD: Cedar Hill No. 1 (part)
Block: 290997004011013
Block: 290997004011015
Block: 290997004011016
Block: 290997004011017
Block: 290997004011018
Block: 290997004011019
Block: 290997004011020
Block: 290997004011021
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Block: 290997004011023
Block: 290997004011040
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Block: 290997004011064
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Block: 290997004011066
Block: 290997004011068
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Block: 290997004012023
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Block: 290997004012033
Block: 290997004012034
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Block: 290997011021005
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Block: 290997011021007
Block: 290997011021008
Block: 290997011021009
Block: 290997011021010

Block: 290997011021012
Block: 290997011021017
Block: 290997011021018
Block: 290997011021069
VTD: Cedar Hill No. 2
VTD: Crystal City (part)
Block: 290997007001002
Block: 290997007001003
Block: 290997007001004
Block: 290997007001005
Block: 290997007001006
Block: 290997007001007
Block: 290997007001008
Block: 290997007001009
Block: 290997007001010
Block: 290997007001011
Block: 290997007001012
Block: 290997007001013
Block: 290997007001014
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Block: 290997008021117
Block: 290997010001026
VTD: Flamm City
VTD: Herculaneum
VTD: High Ridge 3-1
VTD: High Ridge 3-2
VTD: High Ridge No. 1
VTD: High Ridge No. 2
VTD: Hoene Springs
VTD: Horine
VTD: House Springs 1-1
VTD: House Springs 1-2
VTD: House Springs No. 2
VTD: Imperial No. 1
VTD: Imperial No. 2
VTD: Imperial No. 3
VTD: Jefferson Heights
VTD: Kimmswick
VTD: Lake Tishomingo (part)
Block: 290997005021040
VTD: Maxville No. 1 (part)
Block: 290997001131008
Block: 290997001131010
Block: 290997001131011
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Block: 290997001131013
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VTD: Maxville No. 2 (part)
Block: 290997001132003
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Block: 290997001172057
VTD: McNamee R-1
VTD: Meramec Valley/McNamee

VTD: Miller
VTD: Murphy No. 1 (part)
Block: 290997003032010
Block: 290997003041036
VTD: Murphy No. 3 (part)
Block: 290997002101039
Block: 290997002101040
Block: 290997002111000
Block: 290997002111001
Block: 290997002111002
Block: 290997002111003
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VTD: Parkdale
VTD: Pevely
VTD: Pevely Outside No. 1
VTD: Pevely Outside No. 2
VTD: Riverview
VTD: Rock Creek No. 1
VTD: Rock Creek No. 2
VTD: Rock Creek No. 3
VTD: Rockwood-6/Hoene Springs
VTD: Rockwood-6/McNamee
VTD: Scotsdale
VTD: Ware (part)
Block: 290997005021035
VTD: Windsor
Lincoln MO County
Maries MO County

Miller MO County
Montgomery MO County
Osage MO County
St. Charles MO County (part)
VTD: 001-Kampville
VTD: 004-Orchard Farm
VTD: 005-Rivers
VTD: 014-Lincoln
VTD: 015-Washington (part)
Block: 291833110042000
Block: 291833110042002
VTD: 021-Truman
VTD: 022-Cheshire
VTD: 025-Shirewood
VTD: 028-Treetop
VTD: 031-Sibley
VTD: 033-Canary
VTD: 034-McNair
VTD: 041-Government
VTD: 043-Marina
VTD: 045-Mamelle
VTD: 051-St. Cletus
VTD: 054-Coverdell
VTD: 056-Edgewood
VTD: 057-Hanover
VTD: 062-Adams (part)
Block: 291833107002003
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VTD: 063-St. Andrews
VTD: 071-Fairways
VTD: 102-Tanglewood
VTD: 103-Cave Springs
VTD: 104-Hi Point
VTD: 106-Spencer
VTD: 107-Oak Creek
VTD: 113-Briarhill
VTD: 121-St. Marys
VTD: 122-Mid Rivers
VTD: 124-Rabbit Run
VTD: 126-Meadow Valley (part)
Block: 291833113912003
Block: 291833113912004
Block: 291833113913006
VTD: 128-Fairmount
VTD: 131-Shadow Creek
VTD: 132-Country Hill
VTD: 145-Salt Lick
VTD: 148-Winds
VTD: 149-Sunny Hill
VTD: 151-Glengate
VTD: 155-Green Forest (part)
Block: 291833113121000

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VTD: 156-Oaks
VTD: 157-Patriot
VTD: 159-Hillcrest
VTD: 160-Harmony
VTD: 161-Montbrook
VTD: 162-Elks
VTD: 163-Civic
VTD: 165-St. Paul
VTD: 166-Mount Hope
VTD: 167-Morningside
VTD: 169-Highgrove
VTD: 173-Turtle Creek
VTD: 181-Community
VTD: 182-Evergreen
VTD: 183-Foristell
VTD: 184-Flint Hill
VTD: 185-Josephville
VTD: 186-Twin Oaks
VTD: 187-Fairview
VTD: 189-Pioneer
VTD: 190-Peine
VTD: 193-Delmar
VTD: 194-Amber Meadows
VTD: 197-Feise
VTD: 198-Cedar
VTD: 199-Regatta Bay
VTD: 200-Normandy
VTD: 202-Ridgepoint
VTD: 205-Bayfield
VTD: 210-Freymuth
VTD: 213-Bryan
VTD: 214-Hawk Ridge
VTD: 217-Keystone
VTD: 222-New Melle
VTD: 225-Augusta
VTD: 226-Hopewell
VTD: 229-Callaway
Warren MO County

128.454. FOURTH CONGRESSIONAL DISTRICT (2010 CENSUS) — The fourth congressional district shall be composed of the following:

Audrain MO County (part)
VTD: Benton City (part)
Block: 290079502004009
Block: 290079502004014
Block: 290079502004015
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VTD: Community
VTD: Friendship
VTD: Martinsburg (part)
Block: 290079502005000
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Block: 290079502005336
VTD: Mexico No. 1

VTD: Mexico No. 2
VTD: Mexico No. 3
VTD: Mexico No. 4
VTD: Mexico No. 5
VTD: Mexico No. 6
VTD: South Fork
VTD: Thompson
VTD: Wilson/Salt River
Barton MO County
Bates MO County
Benton MO County
Boone MO County
Camden MO County (part)
VTD: Barnumton
VTD: Camdenton 1 (part)
Block: 290299505002017
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Block: 290299505002019
Block: 290299505002020
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Block: 290299505002023
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Block: 290299508005024
Block: 290299508005025
Block: 290299508005064
VTD: Camdenton 3 (part)
Block: 290299505002046
Block: 290299505002051
Block: 290299505002054
VTD: Climax Springs
VTD: Decaturville
VTD: Greenview
VTD: Ha Ha Tonka
VTD: Hillhouse
VTD: Macks Creek
VTD: Montreal
VTD: Roach
VTD: Stoutland
VTD: Sunny Slope
VTD: Sunrise Beach 2 (part)
Block: 290299512001000
Block: 290299512001001
Block: 290299512001002
Block: 290299512001003
Block: 290299512001004
Block: 290299512001005
Block: 290299512001006
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Block: 290299512001011
Block: 290299512001012
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Block: 290299512002158
Block: 290299512002172
Block: 290299512002173
Block: 290299512002176
Block: 290299512002177
Block: 290299512002186
VTD: Sunrise Beach 3 (part)
Block: 290299512002130
Block: 290299512002131
Block: 290299512002132

Block: 290299512002133
Block: 290299512002135
Block: 290299512002137
VTD: Wilson Bend
Cass MO County
Cedar MO County
Cooper MO County
Dade MO County
Dallas MO County
Henry MO County
Hickory MO County
Howard MO County
Johnson MO County
Laclede MO County
Moniteau MO County
Morgan MO County
Pettis MO County
Pulaski MO County
Randolph MO County
St. Clair MO County
Vernon MO County
Webster MO County (part)
VTD: Diggins (part)
Block: 292254703021043
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Block: 292254704022246
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VTD: East Ozark
VTD: Finley (part)
Block: 292254704011022
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Block: 292254704012072

VTD: Grant
VTD: Hazelwood
VTD: High Prairie
VTD: Jackson
VTD: Marshfield
VTD: Union/Niangua
VTD: Washington
VTD: West Ozark

128.455. FIFTH CONGRESSIONAL DISTRICT (2010 CENSUS) — The fifth congressional district shall be composed of the following:
Clay MO County (part)
VTD: Chou 8
VTD: Gal 1
VTD: Gal 10
VTD: Gal 11
VTD: Gal 12
VTD: Gal 13
VTD: Gal 14
VTD: Gal 15
VTD: Gal 16
VTD: Gal 18
VTD: Gal 2
VTD: Gal 3
VTD: Gal 4
VTD: Gal 5
VTD: Gal 6
VTD: Gal 7
VTD: Gal 9
VTD: KC 21-11
VTD: KC 21-12 (part)
Block: 290470212062033
Block: 290470212062034
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Block: 290470212062038
Block: 290470212062039
Block: 290470212062040
Block: 290470212062041
Block: 290470212062042
Block: 290470212062043
Block: 290470212063014
Block: 290470212063015
Block: 290470212063016
Block: 290470212063017
Block: 290470212063018
Block: 290470212063019
Block: 290470212063020
Block: 290470212063021
Block: 290470212063024
Block: 290470212063025

Block: 290470212063026
Block: 290470212063027
VTD: KC 21-14
VTD: KC 21-18
VTD: KC 21-19
VTD: KC 21-20
VTD: KC 21-21
VTD: KC 21-22
VTD: KC 21-23
VTD: KC 21-24
VTD: KC 21-25 (part)
Block: 290470211011003
Block: 290470211011007
VTD: KC 21-3
VTD: KC 21-4
VTD: KC 21-5
VTD: KC 21-6
VTD: KC 21-7
VTD: KC 21-8
VTD: KC 21-9
Jackson MO County (part)
VTD: Blue Sub 1 No. 1
VTD: Blue Sub 1 No. 10
VTD: Blue Sub 1 No. 11 & 11A
VTD: Blue Sub 1 No. 12
VTD: Blue Sub 1 No. 13
VTD: Blue Sub 1 No. 14
VTD: Blue Sub 1 No. 18
VTD: Blue Sub 1 No. 2
VTD: Blue Sub 1 No. 4 & 4A
VTD: Blue Sub 1 No. 5
VTD: Blue Sub 1 No. 6 & 6B
VTD: Blue Sub 1 No. 6A
VTD: Blue Sub 1 No. 7
VTD: Blue Sub 1 No. 8,15,& 16
VTD: Blue Sub 1 No. 9
VTD: Blue Sub 2 No. 1
VTD: Blue Sub 2 No. 10
VTD: Blue Sub 2 No. 2
VTD: Blue Sub 2 No. 3
VTD: Blue Sub 2 No. 3A
VTD: Blue Sub 2 No. 4
VTD: Blue Sub 2 No. 5
VTD: Blue Sub 2 No. 6
VTD: Blue Sub 2 No. 7
VTD: Blue Sub 2 No. 8
VTD: Blue Sub 2 No. 9
VTD: Blue Sub 3 No. 1
VTD: Blue Sub 3 No. 11
VTD: Blue Sub 3 No. 12 & 13 (part)
Block: 290950150001058
Block: 290950150001065

Block: 290950150001066
VTD: Blue Sub 3 No. 14,15,15N,17N,& 18N
VTD: Blue Sub 3 No. 15A
VTD: Blue Sub 3 No. 16 & 16A
VTD: Blue Sub 3 No. 2
VTD: Blue Sub 3 No. 3
VTD: Blue Sub 3 No. 4
VTD: Blue Sub 3 No. 5
VTD: Blue Sub 3 No. 5A
VTD: Blue Sub 3 No. 9
VTD: Blue Sub 4 No. 1
VTD: Blue Sub 4 No. 10
VTD: Blue Sub 4 No. 11
VTD: Blue Sub 4 No. 12
VTD: Blue Sub 4 No. 2
VTD: Blue Sub 4 No. 3
VTD: Blue Sub 4 No. 4
VTD: Blue Sub 4 No. 5
VTD: Blue Sub 4 No. 6
VTD: Blue Sub 4 No. 7
VTD: Blue Sub 4 No. 8
VTD: Blue Sub 4 No. 9
VTD: Blue Sub 5 No. 1
VTD: Blue Sub 5 No. 11
VTD: Blue Sub 5 No. 13
VTD: Blue Sub 5 No. 14
VTD: Blue Sub 5 No. 15
VTD: Blue Sub 5 No. 2
VTD: Blue Sub 5 No. 3
VTD: Blue Sub 5 No. 4
VTD: Blue Sub 5 No. 5 & 12
VTD: Blue Sub 5 No. 6
VTD: Blue Sub 5 No. 7
VTD: Blue Sub 5 No. 8
VTD: Blue Sub 5 No. 9
VTD: Blue Sub 6 No. 1
VTD: Blue Sub 6 No. 10
VTD: Blue Sub 6 No. 11
VTD: Blue Sub 6 No. 12
VTD: Blue Sub 6 No. 2
VTD: Blue Sub 6 No. 3
VTD: Blue Sub 6 No. 4
VTD: Blue Sub 6 No. 5
VTD: Blue Sub 6 No. 5A
VTD: Blue Sub 6 No. 6
VTD: Blue Sub 6 No. 6A
VTD: Blue Sub 6 No. 7 & 7N
VTD: Blue Sub 6 No. 8
VTD: Blue Sub 6 No. 8A
VTD: Blue Sub 6 No. 9
VTD: Blue Sub 7 No. 1
VTD: Blue Sub 7 No. 10

VTD: Blue Sub 7 No. 11
VTD: Blue Sub 7 No. 12
VTD: Blue Sub 7 No. 13
VTD: Blue Sub 7 No. 14
VTD: Blue Sub 7 No. 2
VTD: Blue Sub 7 No. 2A
VTD: Blue Sub 7 No. 3
VTD: Blue Sub 7 No. 4
VTD: Blue Sub 7 No. 5 & 5A
VTD: Blue Sub 7 No. 6
VTD: Blue Sub 7 No. 7
VTD: Blue Sub 7 No. 8
VTD: Blue Sub 7 No. 9
VTD: Blue Sub 8 No. 1
VTD: Blue Sub 8 No. 10 & 10A
VTD: Blue Sub 8 No. 11
VTD: Blue Sub 8 No. 12,12A,& 12B (part)
Block: 290950145012000
Block: 290950145012001
Block: 290950145012002
Block: 290950145012003
Block: 290950145012004
Block: 290950145012005
Block: 290950145012006
Block: 290950145012007
Block: 290950145012008
Block: 290950145012009
Block: 290950145012010
Block: 290950145012011
Block: 290950145012012
Block: 290950145012013
Block: 290950145012014
Block: 290950145012015
Block: 290950145012018
Block: 290950145012019
Block: 290950145012020
Block: 290950145012021
Block: 290950145012034
Block: 290950145012035
Block: 290950145022030
Block: 290950145022031
Block: 290950146032029
Block: 290950146043026
Block: 290950146043027
VTD: Blue Sub 8 No. 13 & 13N (part)
Block: 290950145022003
Block: 290950145022012
Block: 290950145022013
Block: 290950145022014
Block: 290950145022015
Block: 290950145022016
Block: 290950145022021

Block: 290950145022022
Block: 290950145022023
Block: 290950145022024
Block: 290950145022025
Block: 290950147011053
Block: 290950147011055
VTD: Blue Sub 8 No. 2
VTD: Blue Sub 8 No. 2A
VTD: Blue Sub 8 No. 3
VTD: Blue Sub 8 No. 5 & 5A
VTD: Blue Sub 8 No. 6
VTD: Blue Sub 8 No. 7
VTD: Blue Sub 8 No. 8
VTD: Blue Sub 8 No. 9
VTD: Blue Sub 8 No. 9A
VTD: Brooking No. 1
VTD: Brooking No. 10
VTD: Brooking No. 11
VTD: Brooking No. 12
VTD: Brooking No. 13
VTD: Brooking No. 14
VTD: Brooking No. 15
VTD: Brooking No. 16
VTD: Brooking No. 17
VTD: Brooking No. 18
VTD: Brooking No. 19
VTD: Brooking No. 2 & 2A
VTD: Brooking No. 20
VTD: Brooking No. 21
VTD: Brooking No. 22 & 22A
VTD: Brooking No. 23
VTD: Brooking No. 24
VTD: Brooking No. 25
VTD: Brooking No. 26
VTD: Brooking No. 27
VTD: Brooking No. 28
VTD: Brooking No. 3
VTD: Brooking No. 4
VTD: Brooking No. 5
VTD: Brooking No. 6
VTD: Brooking No. 7
VTD: Brooking No. 8
VTD: Brooking No. 9
VTD: Brooking No. 9A
VTD: Fort Osage No. 1,1A,2,& 3 (part)
Block: 290950147021002
Block: 290950148041000
Block: 290950148041003
Block: 290950148041004
Block: 290950177003027
Block: 290950177003028
Block: 290950177003063

Block: 290950177003064
Block: 290950177003071
Block: 290950177003078
VTD: KC WD1 PCT101
VTD: KC WD1 PCT102
VTD: KC WD1 PCT103
VTD: KC WD1 PCT104
VTD: KC WD1 PCT105
VTD: KC WD1 PCT106
VTD: KC WD1 PCT107
VTD: KC WD1 PCT108
VTD: KC WD1 PCT109
VTD: KC WD1 PCT110
VTD: KC WD1 PCT111
VTD: KC WD1 PCT511
VTD: KC WD10 PCT1001
VTD: KC WD10 PCT1002
VTD: KC WD10 PCT1003
VTD: KC WD10 PCT1004
VTD: KC WD10 PCT1005
VTD: KC WD10 PCT1006
VTD: KC WD10 PCT1008
VTD: KC WD10 PCT1009
VTD: KC WD10 PCT1010
VTD: KC WD10 PCT1011
VTD: KC WD10 PCT1012
VTD: KC WD10 PCT1013
VTD: KC WD10 PCT1014
VTD: KC WD10 PCT1015
VTD: KC WD10 PCT2201
VTD: KC WD11 PCT1101
VTD: KC WD11 PCT1102
VTD: KC WD11 PCT1103
VTD: KC WD11 PCT1104
VTD: KC WD11 PCT1105
VTD: KC WD11 PCT1106
VTD: KC WD11 PCT1107
VTD: KC WD11 PCT1108
VTD: KC WD11 PCT1109
VTD: KC WD11 PCT1110
VTD: KC WD11 PCT1209
VTD: KC WD12 PCT1201
VTD: KC WD12 PCT1202
VTD: KC WD12 PCT1203
VTD: KC WD12 PCT1204
VTD: KC WD12 PCT1205
VTD: KC WD12 PCT1206
VTD: KC WD12 PCT1207
VTD: KC WD12 PCT1208
VTD: KC WD12 PCT1210
VTD: KC WD12 PCT1305
VTD: KC WD12 PCT1306

VTD: KC WD12 PCT1307
VTD: KC WD12 PCT1308
VTD: KC WD12 PCT1309
VTD: KC WD12 PCT1310
VTD: KC WD13 PCT1301
VTD: KC WD13 PCT1302
VTD: KC WD13 PCT1303
VTD: KC WD13 PCT1304
VTD: KC WD13 PCT1501
VTD: KC WD13 PCT1502
VTD: KC WD14 PCT1401
VTD: KC WD14 PCT1402
VTD: KC WD14 PCT1403
VTD: KC WD14 PCT1404
VTD: KC WD14 PCT1405
VTD: KC WD14 PCT1406
VTD: KC WD14 PCT1407
VTD: KC WD14 PCT1408
VTD: KC WD14 PCT1409
VTD: KC WD14 PCT1410
VTD: KC WD14 PCT1411
VTD: KC WD14 PCT1412
VTD: KC WD14 PCT1413
VTD: KC WD15 PCT1414
VTD: KC WD15 PCT1503
VTD: KC WD15 PCT1504
VTD: KC WD15 PCT1505
VTD: KC WD15 PCT1506
VTD: KC WD15 PCT1507
VTD: KC WD15 PCT1508
VTD: KC WD15 PCT1509
VTD: KC WD15 PCT1512
VTD: KC WD15 PCT1513
VTD: KC WD15 PCT1514
VTD: KC WD15 PCT311
VTD: KC WD15 PCT314
VTD: KC WD15 PCT718
VTD: KC WD16 PCT1511
VTD: KC WD16 PCT1601
VTD: KC WD16 PCT1602
VTD: KC WD16 PCT1603
VTD: KC WD16 PCT1604
VTD: KC WD16 PCT1605
VTD: KC WD16 PCT1607
VTD: KC WD16 PCT1608
VTD: KC WD16 PCT1609
VTD: KC WD16 PCT1610
VTD: KC WD16 PCT1611
VTD: KC WD16 PCT1612
VTD: KC WD16 PCT1613
VTD: KC WD16 PCT1614
VTD: KC WD16 PCT1615

VTD: KC WD16 PCT1616
VTD: KC WD16 PCT717
VTD: KC WD17 PCT1606
VTD: KC WD17 PCT1617
VTD: KC WD17 PCT1618
VTD: KC WD17 PCT1701
VTD: KC WD17 PCT1702
VTD: KC WD17 PCT1703
VTD: KC WD17 PCT1704
VTD: KC WD17 PCT1705
VTD: KC WD17 PCT1706
VTD: KC WD17 PCT1707
VTD: KC WD17 PCT1708
VTD: KC WD17 PCT1712
VTD: KC WD17 PCT1814
VTD: KC WD18 PCT1801
VTD: KC WD18 PCT1802
VTD: KC WD18 PCT1803
VTD: KC WD18 PCT1804
VTD: KC WD18 PCT1805
VTD: KC WD18 PCT1806
VTD: KC WD18 PCT1807
VTD: KC WD18 PCT1808
VTD: KC WD18 PCT1809
VTD: KC WD18 PCT1810
VTD: KC WD18 PCT1812
VTD: KC WD18 PCT1813
VTD: KC WD18 PCT1816
VTD: KC WD19 PCT1709
VTD: KC WD19 PCT1710
VTD: KC WD19 PCT1815
VTD: KC WD19 PCT1817
VTD: KC WD19 PCT1903
VTD: KC WD19 PCT1905
VTD: KC WD19 PCT1906
VTD: KC WD19 PCT1907
VTD: KC WD19 PCT1908
VTD: KC WD19 PCT1909
VTD: KC WD19 PCT1910
VTD: KC WD19 PCT1911
VTD: KC WD19 PCT1912
VTD: KC WD19 PCT1913
VTD: KC WD19 PCT1914
VTD: KC WD19 PCT1916
VTD: KC WD19 PCT1917
VTD: KC WD19 PCT1918
VTD: KC WD19 PCT1919
VTD: KC WD19 PCT903
VTD: KC WD19 PCT912
VTD: KC WD2 PCT201
VTD: KC WD2 PCT202
VTD: KC WD2 PCT203

VTD: KC WD2 PCT204
VTD: KC WD2 PCT205
VTD: KC WD2 PCT206
VTD: KC WD2 PCT207
VTD: KC WD2 PCT208
VTD: KC WD2 PCT209
VTD: KC WD2 PCT210
VTD: KC WD2 PCT211
VTD: KC WD2 PCT212
VTD: KC WD2 PCT213
VTD: KC WD2 PCT214
VTD: KC WD2 PCT215
VTD: KC WD2 PCT216
VTD: KC WD20 PCT1901
VTD: KC WD20 PCT2002
VTD: KC WD20 PCT2003
VTD: KC WD20 PCT2004
VTD: KC WD20 PCT2005
VTD: KC WD20 PCT2006
VTD: KC WD20 PCT2007
VTD: KC WD20 PCT2008
VTD: KC WD20 PCT2009
VTD: KC WD20 PCT2010
VTD: KC WD22 PCT1007
VTD: KC WD22 PCT2202
VTD: KC WD22 PCT2203
VTD: KC WD22 PCT2204
VTD: KC WD22 PCT2205
VTD: KC WD22 PCT2206
VTD: KC WD22 PCT2207
VTD: KC WD22 PCT2208
VTD: KC WD22 PCT2209
VTD: KC WD22 PCT2210
VTD: KC WD22 PCT2211
VTD: KC WD22 PCT2212
VTD: KC WD22 PCT2213
VTD: KC WD23 PCT2301
VTD: KC WD23 PCT2302
VTD: KC WD23 PCT2303
VTD: KC WD23 PCT2304
VTD: KC WD23 PCT2305
VTD: KC WD23 PCT2306
VTD: KC WD23 PCT2307
VTD: KC WD23 PCT2308
VTD: KC WD23 PCT2309
VTD: KC WD23 PCT2310
VTD: KC WD23 PCT2311
VTD: KC WD23 PCT2312
VTD: KC WD23 PCT2313
VTD: KC WD23 PCT2314
VTD: KC WD23 PCT2315
VTD: KC WD23 PCT2316

VTD: KC WD23 PCT2317
VTD: KC WD23 PCT2318
VTD: KC WD24 PCT2401
VTD: KC WD24 PCT2402
VTD: KC WD24 PCT2403
VTD: KC WD24 PCT2404
VTD: KC WD24 PCT2405
VTD: KC WD24 PCT2406
VTD: KC WD24 PCT2407
VTD: KC WD24 PCT2408
VTD: KC WD24 PCT2409
VTD: KC WD24 PCT2410
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VTD: KC WD24 PCT2414
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VTD: KC WD25 PCT2508
VTD: KC WD25 PCT2509
VTD: KC WD25 PCT2510
VTD: KC WD25 PCT2511
VTD: KC WD25 PCT2602
VTD: KC WD26 PCT1711
VTD: KC WD26 PCT1902
VTD: KC WD26 PCT2502
VTD: KC WD26 PCT2603
VTD: KC WD26 PCT2604
VTD: KC WD26 PCT2605

VTD: KC WD26 PCT2606
VTD: KC WD26 PCT2607
VTD: KC WD26 PCT2608
VTD: KC WD26 PCT2609
VTD: KC WD26 PCT2610
VTD: KC WD26 PCT2611
VTD: KC WD26 PCT2612
VTD: KC WD3 PCT301
VTD: KC WD3 PCT302
VTD: KC WD3 PCT303
VTD: KC WD3 PCT304
VTD: KC WD3 PCT305
VTD: KC WD3 PCT306
VTD: KC WD3 PCT307
VTD: KC WD3 PCT308
VTD: KC WD3 PCT309
VTD: KC WD3 PCT310
VTD: KC WD3 PCT312
VTD: KC WD3 PCT313
VTD: KC WD3 PCT716
VTD: KC WD4 PCT401
VTD: KC WD4 PCT402
VTD: KC WD4 PCT403
VTD: KC WD4 PCT404
VTD: KC WD4 PCT405
VTD: KC WD4 PCT406
VTD: KC WD4 PCT407
VTD: KC WD4 PCT408
VTD: KC WD4 PCT409
VTD: KC WD5 PCT410
VTD: KC WD5 PCT502
VTD: KC WD5 PCT503
VTD: KC WD5 PCT504
VTD: KC WD5 PCT505
VTD: KC WD5 PCT506
VTD: KC WD5 PCT507
VTD: KC WD5 PCT508
VTD: KC WD5 PCT509
VTD: KC WD5 PCT510
VTD: KC WD6 PCT501
VTD: KC WD6 PCT601
VTD: KC WD6 PCT602
VTD: KC WD6 PCT603
VTD: KC WD6 PCT604
VTD: KC WD6 PCT605
VTD: KC WD6 PCT606
VTD: KC WD6 PCT607
VTD: KC WD6 PCT608
VTD: KC WD6 PCT609
VTD: KC WD6 PCT610
VTD: KC WD6 PCT611
VTD: KC WD6 PCT612

VTD: KC WD6 PCT801
VTD: KC WD7 PCT701
VTD: KC WD7 PCT702
VTD: KC WD7 PCT703
VTD: KC WD7 PCT704
VTD: KC WD7 PCT705
VTD: KC WD7 PCT706
VTD: KC WD7 PCT707
VTD: KC WD7 PCT708
VTD: KC WD7 PCT709
VTD: KC WD7 PCT710
VTD: KC WD7 PCT711
VTD: KC WD7 PCT712
VTD: KC WD7 PCT713
VTD: KC WD7 PCT714
VTD: KC WD7 PCT715
VTD: KC WD7 PCT719
VTD: KC WD8 PCT613
VTD: KC WD8 PCT802
VTD: KC WD8 PCT803
VTD: KC WD8 PCT804
VTD: KC WD8 PCT805
VTD: KC WD8 PCT806
VTD: KC WD8 PCT807
VTD: KC WD8 PCT808
VTD: KC WD8 PCT809
VTD: KC WD8 PCT810
VTD: KC WD8 PCT811
VTD: KC WD8 PCT813
VTD: KC WD9 PCT1904
VTD: KC WD9 PCT812
VTD: KC WD9 PCT901
VTD: KC WD9 PCT902
VTD: KC WD9 PCT904
VTD: KC WD9 PCT905
VTD: KC WD9 PCT906
VTD: KC WD9 PCT907
VTD: KC WD9 PCT908
VTD: KC WD9 PCT909
VTD: KC WD9 PCT910
VTD: KC WD9 PCT911
VTD: Prairie No. 1
VTD: Prairie No. 10,11,& 12
VTD: Prairie No. 13
VTD: Prairie No. 13A
VTD: Prairie No. 14
VTD: Prairie No. 15
VTD: Prairie No. 16
VTD: Prairie No. 17
VTD: Prairie No. 18 & 19
VTD: Prairie No. 2
VTD: Prairie No. 20

VTD: Prairie No. 20A & 20B
VTD: Prairie No. 20C
VTD: Prairie No. 21
VTD: Prairie No. 22
VTD: Prairie No. 23
VTD: Prairie No. 24,24B,25A,68
VTD: Prairie No. 24A
VTD: Prairie No. 24C
VTD: Prairie No. 25
VTD: Prairie No. 26,27,28,& 78
VTD: Prairie No. 29 & 30C (part)
Block: 290950142031005
Block: 290950142032005
Block: 290950142032015
Block: 290950142032016
Block: 290950142032018
Block: 290950142032019
Block: 290950142032023
VTD: Prairie No. 3 (part)
Block: 290950137031011
Block: 290950137031012
Block: 290950137031015
Block: 290950137031016
Block: 290950137031018
Block: 290950137031019
Block: 290950137031020
Block: 290950137031021
Block: 290950137031022
Block: 290950137031023
Block: 290950137031024
Block: 290950137031025
Block: 290950137031026
Block: 290950137031027
Block: 290950137031028
Block: 290950137031029
Block: 290950137031030
Block: 290950137031031
Block: 290950137031032
Block: 290950137031033
Block: 290950137031034
Block: 290950137031035
Block: 290950137031036
Block: 290950137031037
Block: 290950137031038
Block: 290950137031039
Block: 290950137031040
Block: 290950137031041
Block: 290950137031042
Block: 290950137031043
Block: 290950137031044
Block: 290950137031045
Block: 290950137031046

Block: 290950137031047
Block: 290950137031050
Block: 290950137031051
Block: 290950137031054
Block: 290950137032019
Block: 290950137033052
Block: 290950137033053
Block: 290950137033056
Block: 290950137033057
Block: 290950137033058
Block: 290950137033059
Block: 290950137033060
Block: 290950137033063
Block: 290950137033064
Block: 290950137033065
Block: 290950137033066
Block: 290950137033067
Block: 290950137033068
Block: 290950137033069
Block: 290950137033070
Block: 290950137033071
Block: 290950137033072
Block: 290950137033073
Block: 290950138021027
VTD: Prairie No. 30
VTD: Prairie No. 30A (part)
Block: 290950142031014
Block: 290950142031015
Block: 290950142031016
Block: 290950142031018
Block: 290950145021004
Block: 290950145021027
VTD: Prairie No. 31
VTD: Prairie No. 33
VTD: Prairie No. 34
VTD: Prairie No. 35
VTD: Prairie No. 37
VTD: Prairie No. 37A
VTD: Prairie No. 38
VTD: Prairie No. 39
VTD: Prairie No. 39A
VTD: Prairie No. 40
VTD: Prairie No. 40A & 44A (part)
Block: 290950179003002
VTD: Prairie No. 43 & 79 (part)
Block: 290950142042033
Block: 290950142042034
Block: 290950142042051
Block: 290950142042052
Block: 290950142042053
Block: 290950142042054
Block: 290950142042055

Block: 290950142042056
Block: 290950142042057
Block: 290950142042058
Block: 290950142043030
Block: 290950142043037
Block: 290950142043038
Block: 290950142043039
Block: 290950142043040
Block: 290950142043049
Block: 290950142043051
Block: 290950142043052
Block: 290950142043054
Block: 290950142043055
Block: 290950142043056
Block: 290950143003027
Block: 290950143003028
Block: 290950179003004
VTD: Prairie No. 45
VTD: Prairie No. 50A (part)
Block: 290950139013031
Block: 290950139013032
Block: 290950139013033
Block: 290950139013034
Block: 290950139013035
Block: 290950139013036
Block: 290950139013037
VTD: Prairie No. 50C,58,58A,58B,58C,58D,58E,58F,& 76 (part)
Block: 290950139011066
Block: 290950139011067
Block: 290950139012058
Block: 290950139012066
Block: 290950139012068
Block: 290950139012069
Block: 290950139012072
Block: 290950139012073
Block: 290950139012074
Block: 290950139012075
Block: 290950139012076
Block: 290950139012149
Block: 290950139012150
Block: 290950139012151
Block: 290950139012152
Block: 290950139013055
VTD: Prairie No. 51
VTD: Prairie No. 51A
VTD: Prairie No. 51B,51N,63,63A,63C,65,65A,65N,77,77A,77B,& 77N
VTD: Prairie No. 52
VTD: Prairie No. 52A
VTD: Prairie No. 53
VTD: Prairie No. 55 & 56 (part)
Block: 290950141111038
Block: 290950141111039

Block: 290950141111040
Block: 290950141111041
Block: 290950141111052
VTD: Prairie No. 57,72,73,73A,73B,73C,73N,73W,& 73X (part)
Block: 290950141111030
Block: 290950141111031
Block: 290950141111032
Block: 290950141111033
Block: 290950141111034
Block: 290950141111035
Block: 290950141111036
VTD: Prairie No. 59,59N,60,61,75B,75D,75E,75F,& 75G (part)
Block: 290950139011031
Block: 290950139011032
Block: 290950139011033
Block: 290950139011034
Block: 290950139011035
Block: 290950139011036
Block: 290950139011042
Block: 290950141121020
Block: 290950141121021
Block: 290950141121022
Block: 290950141121023
Block: 290950141121024
Block: 290950141121025
Block: 290950141121026
Block: 290950141121027
Block: 290950141121028
Block: 290950141121029
Block: 290950141121030
Block: 290950141121042
Block: 290950141121043
Block: 290950141121044
Block: 290950141121045
Block: 290950141121047
Block: 290950141121048
Block: 290950141121056
Block: 290950141121057
Block: 290950141121059
VTD: Prairie No. 62,71,74,75,75A,75C,& 75N (part)
Block: 290950139011045
Block: 290950139011065
Block: 290950141121046
Block: 290950141121058
VTD: Prairie No. 8 & 8B
VTD: Prairie No. 8A
VTD: Prairie No. 9
VTD: Sni-A-Bar No. 1,1B,& 1C (part)
Block: 290950145022002
Block: 290950145022010
Block: 290950145022011
Block: 290950145022020

Block: 290950145022044
VTD: Sni-A-Bar No. 14,75N,& 75X (part)
Block: 290950141011006
Block: 290950141011007
Block: 290950141011008
Block: 290950141011009
Block: 290950141011010
Block: 290950141011011
Block: 290950141011012
Block: 290950141011013
Block: 290950141011014
Block: 290950141011030
Block: 290950141011032
Block: 290950141011033
Block: 290950141011034
Block: 290950141011035
VTD: Sni-A-Bar No. 14A & 75A
VTD: Sni-A-Bar No. 15 & 15A
VTD: Sni-A-Bar No. 15B
VTD: Sni-A-Bar No. 16,83,& 93
VTD: Sni-A-Bar No. 19 (part)
Block: 290950141081001
Block: 290950141081002
Block: 290950141081003
Block: 290950141081004
Block: 290950141081005
Block: 290950141081006
Block: 290950141081007
Block: 290950141081008
Block: 290950141081009
Block: 290950141081010
Block: 290950141081011
VTD: Sni-A-Bar No. 20 & 70A
VTD: Sni-A-Bar No. 21,21B,70,& 71 (part)
Block: 290950141082000
Block: 290950141082001
Block: 290950141082002
Block: 290950141082003
Block: 290950141082004
Block: 290950141082005
Block: 290950141082006
Block: 290950141082007
Block: 290950141082008
Block: 290950141082009
Block: 290950141082010
Block: 290950141082011
Block: 290950141082012
Block: 290950141082013
Block: 290950141082014
Block: 290950141082015
Block: 290950141082016
Block: 290950141082017

Block: 290950141082018
Block: 290950141082025
Block: 290950193001050
Block: 290950193001051
Block: 290950193001052
Block: 290950193001053
Block: 290950193001054
VTD: Sni-A-Bar No. 22
VTD: Sni-A-Bar No. 23
VTD: Sni-A-Bar No. 23A
VTD: Sni-A-Bar No. 24
VTD: Sni-A-Bar No. 25,72A,& 72B (part)
Block: 290950141083035
Block: 290950141142010
Block: 290950141142011
Block: 290950141142042
VTD: Sni-A-Bar No. 26 & 26N
VTD: Sni-A-Bar No. 27
VTD: Sni-A-Bar No. 31
VTD: Sni-A-Bar No. 31A,67,78A,& 78B
VTD: Sni-A-Bar No. 31B
VTD: Sni-A-Bar No. 32 & 78N
VTD: Sni-A-Bar No. 33
VTD: Sni-A-Bar No. 34,34A,& 74 (part)
Block: 290950141111042
Block: 290950141111043
Block: 290950141111044
Block: 290950141111045
Block: 290950141111046
VTD: Sni-A-Bar No. 35
VTD: Sni-A-Bar No. 35A
VTD: Sni-A-Bar No. 36,36A,& 79A
VTD: Sni-A-Bar No. 40 & 40B
VTD: Sni-A-Bar No. 40A & 41
VTD: Sni-A-Bar No. 40D & 40E
VTD: Sni-A-Bar No. 42,42N,42X,42Y,42Z,44,44X,44Z,45,45A,45B,47,48,& 81C (part)
Block: 290950140021003
Block: 290950140021010
Block: 290950140021022
Block: 290950140021023
Block: 290950140071047
Block: 290950140071048
Block: 290950140071049
Block: 290950140071050
Block: 290950140071051
Block: 290950140071052
Block: 290950140071053
Block: 290950140071058
Block: 290950140071059
Block: 290950140071060
Block: 290950140071061
Block: 290950140071062

Block: 290950140071063
Block: 290950140071064
Block: 290950140071066
Block: 290950140071067
Block: 290950140071068
Block: 290950140071069
Block: 290950140071070
Block: 290950140071080
Block: 290950140071081
Block: 290950140071082
Block: 290950140071083
Block: 290950140071085
Block: 290950140071086
Block: 290950140071088
Block: 290950140071093
Block: 290950140071094
Block: 290950140071095
Block: 290950141011017
Block: 290950141011018
Block: 290950141011021
VTD: Sni-A-Bar No. 50 & 91
VTD: Sni-A-Bar No. 51,51A,& 94A
VTD: Sni-A-Bar No. 53 & 92
VTD: Sni-A-Bar No. 55
VTD: Sni-A-Bar No. 57
VTD: Sni-A-Bar No. 68 & 68Z (part)
Block: 290950141142003
Block: 290950141142004
Block: 290950141142005
Block: 290950141142006
Block: 290950141142041
VTD: Sni-A-Bar No. 76 & 76A
VTD: Sni-A-Bar No. 77
VTD: Sni-A-Bar No. 78,78X,79,79N,84,84A,84B,84C,& 85
VTD: Sni-A-Bar No. 86,87,88,88A,88B,& 88C (part)
Block: 290950140021004
Block: 290950140021005
Block: 290950140021007
Block: 290950140021008
Block: 290950140021009
Block: 290950140021011
Block: 290950140021012
Block: 290950140021014
Block: 290950140021015
Block: 290950140021016
Block: 290950140021017
Block: 290950140021018
Block: 290950140021019
Block: 290950140021020
Block: 290950140021021
Block: 290950140021024
Block: 290950140021025

Block: 290950140021026
Block: 290950140021027
Block: 290950140022006
Block: 290950140022007
Block: 290950140022008
Block: 290950140022009
Block: 290950140022010
Block: 290950140022011
Block: 290950140022012
Block: 290950140022013
Block: 290950140022014
Block: 290950140022015
Block: 290950140022016
Block: 290950140022017
Block: 290950140022018
Block: 290950140022019
Block: 290950140042003
Block: 290950140042004
Block: 290950140042005
Block: 290950140042015
Block: 290950140042016
Block: 290950140042017
Block: 290950140042018
Block: 290950140042019
Block: 290950140042020
Block: 290950140042021
Block: 290950140042022
Block: 290950140042023
Block: 290950140051012
Block: 290950140051013
Block: 290950140051014
Block: 290950140051015
Block: 290950140051016
Block: 290950140051017
Block: 290950140051038
Block: 290950140061033
Block: 290950140061034
Block: 290950140061057
Block: 290950141111007
Block: 290950141111008
Block: 290950141111053
Block: 290950141111054
Block: 290950141121000
Block: 290950141121001
Block: 290950141121002
Block: 290950141121003
Block: 290950141121007
Block: 290950141121008
Block: 290950141121009
Block: 290950141121012
Block: 290950141121061
VTD: Sni-A-Bar No. 94,94B,95,& 96

VTD: Van Buren No. 1,1A,1B,1C,2,2A,2N,& 2X
VTD: Van Buren No. 11N,19,19A,19B,19C,19D,20N,21,21N,23,& 24
VTD: Van Buren No. 25,26,27,28,29,30,& 32
VTD: Van Buren No. 3,4,5,6,6A,7,& 8 (part)
Block: 290950139011001
Block: 290950139011009
Block: 290950139011010
Block: 290950139011011
Block: 290950139011013
Block: 290950139011014
Block: 290950139011015
Block: 290950139011016
Block: 290950139011017
Block: 290950139011018
Block: 290950139011019
Block: 290950139011020
Block: 290950139011021
Block: 290950139011024
Block: 290950139011025
Block: 290950139011026
Block: 290950139011027
Block: 290950139011028
Block: 290950139011029
Block: 290950139011030
Block: 290950139011037
Block: 290950139011038
Block: 290950139011039
Block: 290950139011040
Block: 290950139011041
Block: 290950139011043
Block: 290950139011046
Block: 290950139011047
Block: 290950139011048
Block: 290950139011049
Block: 290950139011050
Block: 290950139011052
Block: 290950139011053
Block: 290950139011054
Block: 290950139011055
Block: 290950139011056
Block: 290950139011058
Block: 290950139011059
Block: 290950139011060
Block: 290950139011069
Block: 290950139011070
Block: 290950139011074
Block: 290950139011075
Block: 290950141121050
Block: 290950141121052
Block: 290950141121060
Block: 290950141121062
VTD: Van Buren No. 31 & 33

VTD: Van Buren No. 34,35,36,& 37
VTD: Van Buren No. 38,39,40,40A,40B,40C,40D,40N,& 43
VTD: Van Buren No. 41 & 42
VTD: Van Buren No. 9,10,10A,11,11A,12,13,14,15,17,18,& 20
VTD: Washington No. 1
VTD: Washington No. 10 & 10N
VTD: Washington No. 11
VTD: Washington No. 12
VTD: Washington No. 13
VTD: Washington No. 14
VTD: Washington No. 15
VTD: Washington No. 16
VTD: Washington No. 17
VTD: Washington No. 2
VTD: Washington No. 3
VTD: Washington No. 4
VTD: Washington No. 5
VTD: Washington No. 6
VTD: Washington No. 7
VTD: Washington No. 8
VTD: Washington No. 9
Lafayette MO County
Ray MO County
Saline MO County

128.456. SIXTH CONGRESSIONAL DISTRICT (2010 CENSUS) — The sixth congressional district shall be composed of the following:
Adair MO County
Andrew MO County
Atchison MO County
Audrain MO County (part)
VTD: Benton City (part)
Block: 290079502003190
Block: 290079502003440
Block: 290079502003441
Block: 290079502003442
Block: 290079502003443
Block: 290079502003444
Block: 290079502003445
Block: 290079502003446
Block: 290079502003447
Block: 290079502003448
Block: 290079502003449
Block: 290079502003450
Block: 290079502003451
Block: 290079502003452
Block: 290079502003453
Block: 290079502003457
Block: 290079502003458
Block: 290079502003459
Block: 290079502003460
Block: 290079502003461

Block: 290079502003462
Block: 290079502003463
Block: 290079502003464
Block: 290079502003465
Block: 290079502003466
Block: 290079502003473
Block: 290079502004001
Block: 290079502004002
Block: 290079502004003
Block: 290079502004004
Block: 290079502004005
Block: 290079502004006
Block: 290079502004007
Block: 290079502004008
Block: 290079502004010
Block: 290079502004011
Block: 290079502004012
Block: 290079502004013
Block: 290079502004018
Block: 290079502004019
Block: 290079502004020
Block: 290079502004021
Block: 290079502004022
Block: 290079502004023
Block: 290079502004024
Block: 290079502004025
Block: 290079502004026
Block: 290079502004027
Block: 290079502004029
Block: 290079502004030
Block: 290079502004031
Block: 290079502004035
Block: 290079502004036
Block: 290079502004037
Block: 290079502004038
Block: 290079502004039
Block: 290079502004040
Block: 290079502004041
Block: 290079502004042
Block: 290079502004043
Block: 290079502004044
Block: 290079502004045
Block: 290079502004046
Block: 290079502004047
Block: 290079502004048
Block: 290079502004049
Block: 290079502004050
Block: 290079502004051
Block: 290079502004052
Block: 290079502004053
Block: 290079502004054
Block: 290079502004055

Block: 290079502004057
Block: 290079502004058
Block: 290079502004060
Block: 290079502004086
Block: 290079502004087
Block: 290079502004088
Block: 290079502004089
Block: 290079502004090
Block: 290079502004091
Block: 290079502004092
Block: 290079502004093
Block: 290079502004094
Block: 290079502004095
Block: 290079502004097
Block: 290079502004098
Block: 290079502004100
Block: 290079502004101
Block: 290079502004170
Block: 290079502004171
VTD: Farber
VTD: I E Cuivre
VTD: Laddonia
VTD: Martinsburg (part)
Block: 290079502002011
Block: 290079502002012
Block: 290079502002079
Block: 290079502002080
Block: 290079502002081
Block: 290079502002082
Block: 290079502002086
Block: 290079502002087
Block: 290079502002088
Block: 290079502002089
Block: 290079502002100
Block: 290079502002101
Block: 290079502003179
Block: 290079502003181
Block: 290079502003182
Block: 290079502003185
Block: 290079502003186
Block: 290079502003187
Block: 290079502003188
Block: 290079502003189
Block: 290079502003191
Block: 290079502003192
Block: 290079502003193
Block: 290079502003194
Block: 290079502003195
Block: 290079502003196
Block: 290079502003197
Block: 290079502003198
Block: 290079502003199

Block: 290079502003200
Block: 290079502003201
Block: 290079502003202
Block: 290079502003203
Block: 290079502003204
Block: 290079502003205
Block: 290079502003351
Block: 290079502003352
Block: 290079502003353
Block: 290079502003356
Block: 290079502003357
Block: 290079502003358
Block: 290079502003359
Block: 290079502003396
Block: 290079502003397
Block: 290079502003398
Block: 290079502003399
Block: 290079502003400
Block: 290079502003401
Block: 290079502003402
Block: 290079502003403
Block: 290079502003404
Block: 290079502003405
Block: 290079502003406
Block: 290079502003407
Block: 290079502003408
Block: 290079502003409
Block: 290079502003410
Block: 290079502003411
Block: 290079502003412
Block: 290079502003413
Block: 290079502003414
Block: 290079502003415
Block: 290079502003416
Block: 290079502003417
Block: 290079502003418
Block: 290079502003419
Block: 290079502003420
Block: 290079502003421
Block: 290079502003422
Block: 290079502003423
Block: 290079502003424
Block: 290079502003425
Block: 290079502003426
Block: 290079502003427
Block: 290079502003428
Block: 290079502003429
Block: 290079502003430
Block: 290079502003431
Block: 290079502003432
Block: 290079502003433
Block: 290079502003436

Block: 290079502003437
Block: 290079502003438
Block: 290079502003439
Block: 290079502003454
Block: 290079502003455
Block: 290079502003456
Block: 290079502003467
Block: 290079502003468
Block: 290079502003469
Block: 290079502003470
Block: 290079502003471
Block: 290079502003472
Block: 290079502003486
Block: 290079502003487
Block: 290079502003495
Block: 290079502004000
Block: 290079502004028
Block: 290079502004032
Block: 290079502004033
Block: 290079502004034
Block: 290079502004168
Buchanan MO County
Caldwell MO County
Carroll MO County
Chariton MO County
Clark MO County
Clay MO County (part)
VTD: FR 1
VTD: FR 2
VTD: FR 3
VTD: FR 4
VTD: FR 5
VTD: Gal 17
VTD: KC 21 Lib 1
VTD: KC 21 Lib 2
VTD: KC 21 Lib 3
VTD: KC 21 Pl 1
VTD: KC 21-1
VTD: KC 21-10
VTD: KC 21-12 (part)
Block: 290470212052031
Block: 290470212052032
Block: 290470212052033
Block: 290470212053000
Block: 290470212053001
Block: 290470212053002
Block: 290470212053003
Block: 290470212053004
Block: 290470212053005
Block: 290470212053006
Block: 290470212053007
Block: 290470212053008

Block: 290470212053009
Block: 290470212053010
Block: 290470212053011
Block: 290470212053012
Block: 290470212053013
Block: 290470212053014
Block: 290470212053015
Block: 290470212053016
Block: 290470212053017
Block: 290470212053018
Block: 290470212053019
Block: 290470212053020
Block: 290470212053021
Block: 290470212053022
Block: 290470212053023
Block: 290470212053024
Block: 290470212053025
Block: 290470212053026
Block: 290470212053027
Block: 290470212053028
Block: 290470212053029
Block: 290470212053030
Block: 290470212053031
Block: 290470212053032
Block: 290470212053033
Block: 290470212053034
Block: 290470212053035
Block: 290470212053036
Block: 290470212053037
Block: 290470212053038
Block: 290470212053039
Block: 290470212053040
Block: 290470212053041
Block: 290470212053042
Block: 290470212053043
Block: 290470212053044
Block: 290470212062000
Block: 290470212062001
Block: 290470212062002
Block: 290470212062003
Block: 290470212062004
Block: 290470212062005
Block: 290470212062006
Block: 290470212062007
Block: 290470212062008
Block: 290470212062009
Block: 290470212062010
Block: 290470212062011
Block: 290470212062012
Block: 290470212062013
Block: 290470212062014
Block: 290470212062015

Block: 290470212062016
Block: 290470212062017
Block: 290470212062018
Block: 290470212062019
Block: 290470212062020
Block: 290470212062021
Block: 290470212062022
Block: 290470212062023
Block: 290470212062024
Block: 290470212062025
Block: 290470212062026
Block: 290470212062027
Block: 290470212062028
Block: 290470212062029
Block: 290470212062030
Block: 290470212062031
Block: 290470212062032
Block: 290470212062044
Block: 290470212062045
Block: 290470212063000
Block: 290470212063001
Block: 290470212063002
Block: 290470212063003
Block: 290470212063004
Block: 290470212063005
Block: 290470212063006
Block: 290470212063007
Block: 290470212063008
Block: 290470212063009
Block: 290470212063010
Block: 290470212063011
Block: 290470212063012
Block: 290470212063013
Block: 290470212063022
Block: 290470212063023
Block: 290470213031010
Block: 290470213031011
Block: 290470213031012
Block: 290470213031013
Block: 290470213031014
Block: 290470213031015
Block: 290470213031016
Block: 290470213031017
Block: 290470213031018
Block: 290470213031019
Block: 290470213031020
Block: 290470213031021
Block: 290470213031022
Block: 290470213031023
Block: 290470213031024
Block: 290470213031025
Block: 290470213031026

Block: 290470213031030
Block: 290470213032010
Block: 290470213032011
Block: 290470213032012
Block: 290470213032013
Block: 290470213032014
Block: 290470213032015
Block: 290470213032016
Block: 290470213072021
Block: 290470213072022
Block: 290470213072023
Block: 290470213072024
Block: 290470213072025
Block: 290470213072026
Block: 290470213072034
Block: 290470213072035
Block: 290470213072038
Block: 290470213072039
Block: 290470213073007
Block: 290470213073018
Block: 290470213073019
Block: 290470213073020
Block: 290470213073021
Block: 290470213073040
Block: 290470213073041
Block: 290470213073042
Block: 290470213073043
Block: 290470213073044
Block: 290470213073045
Block: 290470213073046
Block: 290470213073047
Block: 290470213073048
Block: 290470213073049
Block: 290470213073050
Block: 290470213073051
Block: 290470213073052
Block: 290470213073053
Block: 290470213073054
Block: 290470213073055
Block: 290470213073056
Block: 290470213073057
Block: 290470213091039
Block: 290470213091040
Block: 290470213091041
Block: 290470213091042
Block: 290470213091043
Block: 290470213091044
Block: 290470213091045
Block: 290470213091046
Block: 290470213091054
Block: 290470213091079
Block: 290470213091080

Block: 290470213091081
Block: 290470213091082
Block: 290470213101006
Block: 290470213101007
Block: 290470213101008
Block: 290470213101013
Block: 290470213101014
Block: 290470213101015
Block: 290470213102025
Block: 290470213102026
Block: 290470213102027
Block: 290470213102028
Block: 290470213102029
Block: 290470213102030
VTD: KC 21-13
VTD: KC 21-15
VTD: KC 21-16
VTD: KC 21-17
VTD: KC 21-2
VTD: KC 21-25 (part)
Block: 290470212051031
Block: 290470212061000
Block: 290470212061001
Block: 290470212061002
Block: 290470212061003
Block: 290470212061004
Block: 290470212061005
Block: 290470212061006
Block: 290470212061007
Block: 290470212061008
Block: 290470212061009
Block: 290470212061010
Block: 290470212061011
Block: 290470212071052
Block: 290470212071056
Block: 290470212081000
Block: 290470212081001
Block: 290470212082000
Block: 290470212083000
Block: 290470212083001
Block: 290470212083002
Block: 290470212083003
Block: 290470212083004
Block: 290470212083005
Block: 290470212083006
Block: 290470212083007
Block: 290470212083008
Block: 290470212083009
Block: 290470212083010
Block: 290470212083011
Block: 290470212083012
Block: 290470212083013

Block: 290470212083014
Block: 290470212083015
Block: 290470212083016
Block: 290470212083017
Block: 290470212083018
Block: 290470212083019
Block: 290470212083020
Block: 290470212083021
Block: 290470212083022
Block: 290470212083023
Block: 290470212083024
Block: 290470212083025
Block: 290470212083026
Block: 290470212083027
VTD: KC 21-26
VTD: Kry 1
VTD: Kry 2
VTD: Kry 3
VTD: Kry 4
VTD: Lib 1
VTD: Lib 10
VTD: Lib 11
VTD: Lib 12
VTD: Lib 13
VTD: Lib 14
VTD: Lib 2
VTD: Lib 3
VTD: Lib 4
VTD: Lib 5
VTD: Lib 6
VTD: Lib 7
VTD: Lib 8
VTD: Lib 9
VTD: Pl 1
VTD: Pl 2
VTD: Pl 3
VTD: Wash 1
VTD: Wash 2
VTD: Wash 3
Clinton MO County
Daviess MO County
DeKalb MO County
Gentry MO County
Grundy MO County
Harrison MO County
Holt MO County
Jackson MO County (part)
VTD: Blue Sub 3 No. 12 & 13 (part)
Block: 290950150001004
Block: 290950150001005
Block: 290950150001006
Block: 290950150001007

Block: 290950150001008
Block: 290950150001009
Block: 290950150001010
Block: 290950150001011
Block: 290950150001013
Block: 290950150001014
Block: 290950150001015
Block: 290950150001016
Block: 290950150001017
Block: 290950150001037
Block: 290950150001054
Block: 290950150001056
Block: 290950150001057
Block: 290950150001059
Block: 290950150001064
Block: 290950150001080
Block: 290950150001081
Block: 290950150001082
Block: 290950150001083
Block: 290950150001084
Block: 290950150001085
Block: 290950150001086
VTD: Blue Sub 8 No. 12,12A,& 12B (part)
Block: 290950145022028
Block: 290950145022029
Block: 290950145022032
Block: 290950145022033
Block: 290950145022034
Block: 290950145022054
Block: 290950145022055
VTD: Blue Sub 8 No. 13 & 13N (part)
Block: 290950145022026
Block: 290950145022027
Block: 290950145022056
Block: 290950145022057
Block: 290950145022058
Block: 290950145022059
VTD: Fort Osage No. 1,1A,2,& 3 (part)
Block: 290950148041001
Block: 290950148041002
Block: 290950148041005
Block: 290950148041007
Block: 290950148041039
Block: 290950150001071
Block: 290950150001072
Block: 290950150001076
Block: 290950150001077
Block: 290950177001000
Block: 290950177001001
Block: 290950177001002
Block: 290950177001003
Block: 290950177001004

Block: 290950177001005
Block: 290950177001006
Block: 290950177001008
Block: 290950177001009
Block: 290950177001010
Block: 290950177001011
Block: 290950177001012
Block: 290950177001013
Block: 290950177001014
Block: 290950177001015
Block: 290950177001016
Block: 290950177001017
Block: 290950177001018
Block: 290950177001019
Block: 290950177001020
Block: 290950177001021
Block: 290950177001022
Block: 290950177001023
Block: 290950177001026
Block: 290950177001027
Block: 290950177001028
Block: 290950177001035
Block: 290950177001036
Block: 290950177003000
Block: 290950177003001
Block: 290950177003002
Block: 290950177003003
Block: 290950177003004
Block: 290950177003005
Block: 290950177003006
Block: 290950177003007
Block: 290950177003008
Block: 290950177003009
Block: 290950177003010
Block: 290950177003011
Block: 290950177003012
Block: 290950177003013
Block: 290950177003014
Block: 290950177003015
Block: 290950177003016
Block: 290950177003017
Block: 290950177003018
Block: 290950177003019
Block: 290950177003020
Block: 290950177003021
Block: 290950177003024
Block: 290950177003025
Block: 290950177003026
Block: 290950177003029
Block: 290950177003072
Block: 290950177003073
Block: 290950177003074

Block: 290950177003075
Block: 290950177003076
Block: 290950177003077
VTD: Fort Osage No. 11,12,& 15N
VTD: Fort Osage No. 16,17,17A,19,& 20
VTD: Fort Osage No. 21
VTD: Fort Osage No. 27 & 28
VTD: Fort Osage No. 4
VTD: Fort Osage No. 5 & 30
VTD: Fort Osage No. 6
VTD: Fort Osage No. 7,8,25,& 26
VTD: Fort Osage No. 9
VTD: Prairie No. 29 & 30C (part)
Block: 290950142031001
Block: 290950142031002
Block: 290950142031025
Block: 290950142032000
Block: 290950142032001
Block: 290950142032002
Block: 290950142032004
Block: 290950142032017
Block: 290950142032020
Block: 290950142032021
Block: 290950142032022
Block: 290950142032024
VTD: Prairie No. 3 (part)
Block: 290950137031013
Block: 290950137031014
Block: 290950137031017
VTD: Prairie No. 30A (part)
Block: 290950142031003
Block: 290950142031004
Block: 290950142031006
Block: 290950142031007
Block: 290950142031008
Block: 290950142031009
Block: 290950142031010
Block: 290950142031011
Block: 290950142031012
Block: 290950142031013
Block: 290950142031021
Block: 290950142031022
Block: 290950142031023
Block: 290950142031024
VTD: Prairie No. 30B,82,& 82A
VTD: Prairie No. 4
VTD: Prairie No. 40A & 44A (part)
Block: 290950179003000
Block: 290950179003005
Block: 290950179003006
Block: 290950185001051
Block: 290950186001019

Block: 290950186001023
Block: 290950186001025
Block: 290950186001026
Block: 290950186001027
Block: 290950186001028
Block: 290950186001033
Block: 290950186002004
Block: 290950186002005
Block: 290950186002006
Block: 290950186002014
Block: 290950186002015
Block: 290950186002016
VTD: Prairie No. 41,42,& 81
VTD: Prairie No. 43 & 79 (part)
Block: 290950142043050
Block: 290950142043053
Block: 290950185001048
Block: 290950185001049
Block: 290950185001050
Block: 290959891001038
Block: 290959891001039
Block: 290959891001040
Block: 290959891001043
Block: 290959891001044
VTD: Prairie No. 46,67,67A,& 67B
VTD: Prairie No. 47
VTD: Prairie No. 48
VTD: Prairie No. 49
VTD: Prairie No. 5
VTD: Prairie No. 50
VTD: Prairie No. 50A (part)
Block: 290950139041016
Block: 290950139041018
Block: 290950139042001
Block: 290950139042002
Block: 290950139042003
Block: 290950139042004
Block: 290950139042005
Block: 290950139042006
Block: 290950139042007
Block: 290950139042008
Block: 290950139042010
Block: 290950139042011
Block: 290950139042012
Block: 290950139042013
Block: 290950139042014
Block: 290950139043026
Block: 290950139043027
Block: 290950139043028
Block: 290950139043030
Block: 290950139043031
VTD: Prairie No. 50B

VTD: Prairie No. 50C,58,58A,58B,58C,58D,58E,58F,& 76 (part)
Block: 290950139013023
Block: 290950139013024
Block: 290950139013025
Block: 290950139013026
Block: 290950139013027
Block: 290950139013028
Block: 290950139013029
Block: 290950139013030
Block: 290950139043000
Block: 290950139043001
Block: 290950139043033
Block: 290950139161004
Block: 290950139161005
Block: 290950139161006
Block: 290950139161007
Block: 290950139161008
Block: 290950139161009
Block: 290950139161010
Block: 290950139161011
Block: 290950139161013
Block: 290950139161014
Block: 290950139161015
Block: 290950139161016
Block: 290950139161017
Block: 290950139161018
Block: 290950139161020
Block: 290950139162050
Block: 290950139162051
Block: 290950139162056
VTD: Prairie No. 50D
VTD: Prairie No. 55 & 56 (part)
Block: 290950141201024
Block: 290950141201025
Block: 290950141201026
Block: 290950141201027
Block: 290950141201028
Block: 290950141201029
Block: 290950141201030
Block: 290950141201031
Block: 290950141201032
Block: 290950141201033
Block: 290950141201034
Block: 290950141201035
Block: 290950141201037
Block: 290950141201038
Block: 290950141201039
Block: 290950141201040
Block: 290950141201043
Block: 290950141201044
VTD: Prairie No. 57,72,73,73A,73B,73C,73N,73W,& 73X (part)
Block: 290950141111037

Block: 290950141201019
Block: 290950141201020
Block: 290950141201021
Block: 290950141201022
Block: 290950141201036
Block: 290950141201041
Block: 290950141201042
Block: 290950141201051
Block: 290950141201052
Block: 290959891001026
Block: 290959891001029
Block: 290959891001030
Block: 290959891001031
Block: 290959891001035
Block: 290959891001048
Block: 290959891001049
Block: 290959891001050
Block: 290959891001051
Block: 290959891001052
Block: 290959891001053
Block: 290959891001054
Block: 290959891001055
Block: 290959891001064
Block: 290959891001065
Block: 290959891001068
VTD: Prairie No. 59,59N,60,61,75B,75D,75E,75F,& 75G (part)
Block: 290950141201046
Block: 290950141201054
Block: 290950141201055
Block: 290950141201056
Block: 290950141201057
Block: 290950141201058
Block: 290950141201060
Block: 290950141201067
VTD: Prairie No. 6
VTD: Prairie No. 62,71,74,75,75A,75C,& 75N (part)
Block: 290950139011044
Block: 290950139013000
Block: 290950139013001
Block: 290950139013002
Block: 290950139013003
Block: 290950139013004
Block: 290950139013005
Block: 290950139013006
Block: 290950139013008
Block: 290950139013013
Block: 290950139013015
Block: 290950139013016
Block: 290950139013019
Block: 290950139013020
Block: 290950139013021
Block: 290950139161000

Block: 290950139161001
Block: 290950139161002
Block: 290950139161003
Block: 290950141201045
Block: 290950141201047
Block: 290950141201048
Block: 290950141201049
Block: 290950141201050
Block: 290950141201053
Block: 290950141201059
Block: 290950141201061
Block: 290950141201062
Block: 290950141201063
Block: 290950141201064
Block: 290950141201065
Block: 290950141201066
Block: 290950141201068
Block: 290950141201069
Block: 290959891001045
Block: 290959891001046
Block: 290959891001047
Block: 290959891001057
Block: 290959891001058
Block: 290959891001059
Block: 290959891001060
Block: 290959891001063
Block: 290959891001066
Block: 290959891001069
VTD: Prairie No. 66 & 66F
VTD: Prairie No. 66A,66B,66C,& 66G
VTD: Prairie No. 66D & 66E
VTD: Prairie No. 69
VTD: Prairie No. 7
VTD: Prairie No. 70,70A,70B,70C,& 70D
VTD: Sni-A-Bar No. 1,1B,& 1C (part)
Block: 290950145022007
Block: 290950145022008
Block: 290950145022009
Block: 290950145022017
Block: 290950145022018
Block: 290950145022019
Block: 290950145022042
Block: 290950145022043
Block: 290950145022045
Block: 290950145022046
Block: 290950145022047
Block: 290950145022048
Block: 290950145022049
Block: 290950145022050
Block: 290950145022051
Block: 290950145022052
Block: 290950145022053

Block: 290950145022060
Block: 290950145022061
Block: 290950145022062
Block: 290950145022063
Block: 290950145022064
Block: 290950145022065
Block: 290950145022066
Block: 290950145022068
Block: 290950145022070
Block: 290950193001005
Block: 290950193001006
Block: 290950193001007
Block: 290950193001008
VTD: Sni-A-Bar No. 10
VTD: Sni-A-Bar No. 11
VTD: Sni-A-Bar No. 11A
VTD: Sni-A-Bar No. 14,75N,& 75X (part)
Block: 290950141011003
Block: 290950141011004
Block: 290950149052013
Block: 290950149052014
Block: 290950149052015
Block: 290950149052016
Block: 290950149052017
VTD: Sni-A-Bar No. 17,17N,17X,17Z,& 69
VTD: Sni-A-Bar No. 18,68N,& 68X
VTD: Sni-A-Bar No. 19 (part)
Block: 290950193002001
Block: 290950193002002
Block: 290950193002003
Block: 290950193002004
Block: 290950193002020
VTD: Sni-A-Bar No. 1A
VTD: Sni-A-Bar No. 2 & 3A
VTD: Sni-A-Bar No. 21,21B,70,& 71 (part)
Block: 290950193001026
VTD: Sni-A-Bar No. 25,72A,& 72B (part)
Block: 290950141142016
Block: 290950141142017
Block: 290950141142018
Block: 290950141142019
Block: 290950141142040
Block: 290950193001055
Block: 290950193001056
Block: 290950193001057
Block: 290950193001058
Block: 290950193001059
Block: 290950193001060
Block: 290950193001061
Block: 290950193001062
Block: 290950193001063
Block: 290950193001064

Block: 290950193001065
Block: 290950193001074
Block: 290950193001075
Block: 290950193001077
Block: 290950193001079
Block: 290950193001080
Block: 290950193001081
Block: 290950193001085
Block: 290950193001086
Block: 290950193001087
Block: 290950193001088
Block: 290950193001089
Block: 290950193001090
Block: 290950193001091
Block: 290950193001092
Block: 290950193001093
Block: 290950193001094
Block: 290950193001096
Block: 290959891001015
Block: 290959891001016
Block: 290959891001017
VTD: Sni-A-Bar No. 29 & 73
VTD: Sni-A-Bar No. 3 & 3B
VTD: Sni-A-Bar No. 30
VTD: Sni-A-Bar No. 30A,30B,30C,& 30D
VTD: Sni-A-Bar No. 34,34A,& 74 (part)
Block: 290950141141009
Block: 290950141141010
Block: 290950141141011
Block: 290950141141012
Block: 290950141141013
Block: 290950141141014
Block: 290950141141015
Block: 290950141141020
Block: 290950141141021
Block: 290950141201000
Block: 290950141201001
Block: 290950141201002
Block: 290950141201003
Block: 290950141201004
Block: 290950141201005
Block: 290950141201006
Block: 290950141201007
Block: 290950141201008
Block: 290950141201009
Block: 290950141201010
Block: 290950141201011
Block: 290950141201012
Block: 290950141201013
Block: 290950141201014
Block: 290950141201015
Block: 290950141201023

Block: 290950141201070
VTD: Sni-A-Bar No. 37,38,& 39
VTD: Sni-A-Bar No. 4 & 4N
VTD: Sni-A-Bar No. 42,42N,42X,42Y,42Z,44,44X,44Z,45,45A,45B,47,48,& 81C (part)
Block: 290950140071002
Block: 290950140071003
Block: 290950140071004
Block: 290950140071005
Block: 290950140071006
Block: 290950140071011
Block: 290950140071012
Block: 290950140071013
Block: 290950140071014
Block: 290950140071018
Block: 290950140071025
Block: 290950140071026
Block: 290950140071027
Block: 290950140071028
Block: 290950140071029
Block: 290950140071030
Block: 290950140071031
Block: 290950140071032
Block: 290950140071038
Block: 290950140071041
Block: 290950140071044
Block: 290950140071045
Block: 290950140071046
Block: 290950140071054
Block: 290950140071055
Block: 290950140071056
Block: 290950140071057
Block: 290950140071096
Block: 290950140071097
Block: 290950149032075
Block: 290950149032076
Block: 290950149032077
Block: 290950149032106
Block: 290950149032135
VTD: Sni-A-Bar No. 49
VTD: Sni-A-Bar No. 4X,59,59N,59X,60,60A,60N,& 60X
VTD: Sni-A-Bar No. 5 & 5N
VTD: Sni-A-Bar No. 52 & 52A
VTD: Sni-A-Bar No. 5A,5B,61,62,62A,& 97
VTD: Sni-A-Bar No. 6 & 6B
VTD: Sni-A-Bar No. 65,65N,& 65X
VTD: Sni-A-Bar No. 68 & 68Z (part)
Block: 290950141142012
Block: 290950141142013
Block: 290950141142014
Block: 290950141142015
Block: 290950141142020
Block: 290950141142029

Block: 290950141142032
Block: 290950141142034
Block: 290950141142035
Block: 290950141142037
Block: 290950141142038
Block: 290950141142039
Block: 290950141201016
Block: 290950141201017
Block: 290950141201018
Block: 290950185001042
Block: 290950185001043
Block: 290950193001021
Block: 290950193001022
Block: 290950193001024
Block: 290950193001036
Block: 290950193001037
Block: 290950193001038
Block: 290950193001042
Block: 290950193001044
Block: 290950193001045
Block: 290950193001066
Block: 290950193001067
Block: 290950193001068
Block: 290950193001069
Block: 290950193001070
Block: 290950193001071
Block: 290950193001072
Block: 290950193001073
Block: 290950193001076
Block: 290950193001078
Block: 290950193001082
Block: 290950193001083
Block: 290950193001084
Block: 290950193001095
Block: 290950193001097
Block: 290950193001098
Block: 290959891001000
Block: 290959891001006
Block: 290959891001007
Block: 290959891001008
Block: 290959891001009
Block: 290959891001010
Block: 290959891001011
Block: 290959891001012
Block: 290959891001013
Block: 290959891001018
Block: 290959891001020
Block: 290959891001021
Block: 290959891001022
Block: 290959891001023
Block: 290959891001024
Block: 290959891001025

Block: 290959891001027
Block: 290959891001028
Block: 290959891001056
Block: 290959891001067
Block: 290959891001078
VTD: Sni-A-Bar No. 6A & 66
VTD: Sni-A-Bar No. 6C,6D,6E,& 6F
VTD: Sni-A-Bar No. 7,13,13A,13N,81,81A,81D,81Y,& 99N
VTD: Sni-A-Bar No. 8
VTD: Sni-A-Bar No. 80
VTD: Sni-A-Bar No. 81B
VTD: Sni-A-Bar No. 82,82A,82N,& 82X
VTD: Sni-A-Bar No. 86,87,88,88A,88B,& 88C (part)
Block: 290950140021006
VTD: Sni-A-Bar No. 89
VTD: Sni-A-Bar No. 9
VTD: Sni-A-Bar No. 90,90A,90B,& 90N
VTD: Van Buren No. 3,4,5,6,6A,7,& 8 (part)
Block: 290950139013007
Block: 290950139013009
Block: 290950139013010
Block: 290950139013011
Block: 290950139013012
Block: 290950139013014
Block: 290950139013017
Block: 290950139013018
Block: 290950139013022
Knox MO County
Lewis MO County
Linn MO County
Livingston MO County
Macon MO County
Marion MO County
Mercer MO County
Monroe MO County
Nodaway MO County
Pike MO County
Platte MO County
Putnam MO County
Ralls MO County
Schuyler MO County
Scotland MO County
Shelby MO County
Sullivan MO County
Worth MO County

128.457. SEVENTH CONGRESSIONAL DISTRICT (2010 CENSUS) — The seventh congressional district shall be composed of the following:
Barry MO County
Christian MO County
Greene MO County
Jasper MO County

Lawrence MO County
McDonald MO County
Newton MO County
Polk MO County
Stone MO County
Taney MO County
Webster MO County (part)
VTD: Benton
VTD: Dallas/Green Hills
VTD: Diggins (part)
Block: 292254704022128
Block: 292254704022129
Block: 292254704022130
Block: 292254704022131
Block: 292254704022132
Block: 292254704022133
Block: 292254704022136
Block: 292254704022137
Block: 292254704022138
Block: 292254704022139
Block: 292254704022141
Block: 292254704022142
Block: 292254704022143
Block: 292254704022144
Block: 292254704022145
Block: 292254704022178
Block: 292254704022179
Block: 292254704022180
Block: 292254704022181
Block: 292254704022182
Block: 292254704022183
Block: 292254704022184
Block: 292254704022185
Block: 292254704022186
Block: 292254704022187
Block: 292254704022208
Block: 292254704022209
Block: 292254704022210
Block: 292254704022211
Block: 292254704022212
Block: 292254704022213
Block: 292254704022214
Block: 292254704022219
Block: 292254704022220
Block: 292254704022221
Block: 292254704022222
Block: 292254704022223
VTD: Finley (part)
Block: 292254704011163
Block: 292254704011164
Block: 292254704011165
Block: 292254704011185

Block: 292254704011186
Block: 292254704011187
Block: 292254704011190
Block: 292254704011192
Block: 292254704011193
Block: 292254704022140

128.458. EIGHTH CONGRESSIONAL DISTRICT (2010 CENSUS) — The eighth congressional district shall be composed of the following:
Bollinger MO County
Butler MO County
Cape Girardeau MO County
Carter MO County
Crawford MO County
Dent MO County
Douglas MO County
Dunklin MO County
Howell MO County
Iron MO County
Jefferson MO County (part)
VTD: Airport No. 1
VTD: Airport No. 2
VTD: Athena
VTD: Cedar Hill Lakes
VTD: Cedar Hill No. 1 (part)
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VTD: Festus (part)
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VTD: Festus Outside (part)
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VTD: Fletcher
VTD: Goldman No. 1
VTD: Goldman No. 2
VTD: Grubville No. 1
VTD: Grubville No. 2
VTD: Hematite
VTD: Hillsboro 1-2
VTD: Hillsboro P-1
VTD: Hillsboro P-2
VTD: Jefferson R7-1
VTD: Jefferson R7-2
VTD: Lake Tishomingo (part)
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VTD: Oakvale
VTD: Olympian Village

VTD: Plattin
VTD: Rush Tower
VTD: Sunrise
VTD: Valle No. 1
VTD: Valle No. 2
VTD: Victoria
VTD: Vineland No. 1
VTD: Vineland No. 2
VTD: Ware (part)
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Madison MO County
Mississippi MO County
New Madrid MO County

Oregon MO County
Ozark MO County
Pemiscot MO County
Perry MO County
Phelps MO County
Reynolds MO County
Ripley MO County
Scott MO County
Shannon MO County
St. Francois MO County
Ste. Genevieve MO County
Stoddard MO County
Texas MO County
Washington MO County
Wayne MO County
Wright MO County

SECTION B. GRAPHICAL MAP REPRESENTATION OF CONGRESSIONAL DISTRICT BOUNDARIES TO BE PUBLISHED. — Upon passage and enactment of sections 128.451 to 128.458 of section A of this act and as provided to the Revisor of Statutes, the Revisor of Statutes shall publish the graphical map representation of the official congressional district boundaries as an appendix of the Revised Statutes of Missouri.

Vetoed April 29, 2011, Veto Override May 4, 2011

HB 197 [HCS HB 197]

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 Department of Health and Senior Services to post on its web site resources relating to umbilical cord blood

AN ACT to amend chapter 191, RSMo, by adding thereto two new sections relating to cord blood banking.

SECTION

A. Enacting clause.
191.755. Department to post resources on website, content.
191.758. Information to be made available by physician to pregnant women, when.

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

SECTION A. ENACTING CLAUSE. — Chapter 191, RSMo, is amended by adding thereto two new sections, to be known as sections 191.755 and 191.758, to read as follows:

191.755. DEPARTMENT TO POST RESOURCES ON WEBSITE, CONTENT. — The director of the department of health and senior services shall make publicly available, by posting on the department's website, resources relating to umbilical cord blood that have been developed by the Parent's Guide to Cord Blood Foundation, or a successor organization, which includes the following information:

(1) An explanation of the potential value and uses of umbilical cord blood, including cord blood cells and stem cells, for individuals who are or are not biologically related to a mother or her newborn child;

(2) An explanation of the differences between using one's own blood cord cells and using related or unrelated cord blood stem cells in the treatment of disease;

(3) An explanation of the differences between public and private umbilical cord blood banking;

(4) The options available to a mother relating to stem cells that are contained in the umbilical cord blood after the delivery of her newborn, including:

(a) Donating the stem cells to a public umbilical cord blood bank where facilities are available;

(b) Storing the stem cells in a private family umbilical cord blood bank for use by immediate and extended family members;

(c) Storing the stem cells for immediate or extended family members through a family or sibling donor banking program that provides free collection, processing, and storage where there is an existing medical need; and

(d) Discarding the stem cells;

(5) The medical processes involved in the collection of cord blood;

(6) Medical or family history criteria that can impact a family's consideration of umbilical cord blood banking, including the likelihood of using a baby's cord blood to serve as a match for a family member who has a medical condition;

(7) Options for ownership and future use of donated umbilical cord blood;

(8) The average cost of public and private umbilical cord blood banking;

(9) The availability of public and private cord blood banks to citizens of Missouri, including:

(a) A list of public cord blood banks and hospitals served by such blood banks;

(b) A list of private cord blood banks that are available; and

(c) The availability of free family banking and sibling donor programs where there is an existing medical need by a family member; and

(10) An explanation of which racial and ethnic groups are in particular need of publicly donated cord blood samples based upon medical data developed by the United States Department of Health and Human Services, Health Resources and Services Administration.

191.758. INFORMATION TO BE MADE AVAILABLE BY PHYSICIAN TO PREGNANT WOMEN, WHEN. — Beginning October 1, 2011, every licensed physician who provides obstetrical or gynecological care to a pregnant woman may, prior to the beginning of the pregnant woman's third trimester of pregnancy or, if later, at the first visit of such pregnant woman to the physician, make available to the patient information developed under section 191.755 relating to the woman's options with respect to umbilical cord blood banking.

Approved July 8, 2011

HB 199 [HB 199]

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 prior or persistent offender of an intoxication-related offense must perform a specified minimum number of hours of community service as an alternative to imprisonment

AN ACT to repeal section 577.023, RSMo, and to enact in lieu thereof one new section relating to community service requirements for intoxication-related traffic offenses, with existing penalty provisions.

SECTION

A. Enacting clause.
577.023. Aggravated, chronic, persistent and prior offenders — enhanced penalties — imprisonment requirements, exceptions — procedures — definitions.

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

SECTION A. ENACTING CLAUSE. — Section 577.023, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 577.023, to read as follows:

577.023. AGGRAVATED, CHRONIC, PERSISTENT AND PRIOR OFFENDERS — ENHANCED PENALTIES — IMPRISONMENT REQUIREMENTS, EXCEPTIONS — PROCEDURES — DEFINITIONS. — 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "aggravated offender" is a person who:

(a) Has pleaded guilty to or has been found guilty of three or more intoxication-related traffic offenses; or

(b) Has pleaded guilty to or has been found guilty of one or more intoxication-related traffic offense and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under section 565.021, where the underlying felony is an intoxication-related traffic offense; or assault in the second degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082;

(2) A "chronic offender" is:

(a) A person who has pleaded guilty to or has been found guilty of four or more intoxication-related traffic offenses; or

(b) A person who has pleaded guilty to or has been found guilty of, on two or more separate occasions, any combination of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under section 565.021, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082; or

(c) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under section 565.021, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082;

(3) "Continuous alcohol monitoring", automatically testing breath, blood, or transdermal alcohol concentration levels and tampering attempts at least once every hour, regardless of the location of the person who is being monitored, and regularly transmitting the data. Continuous alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of section 217.690;

(4) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, murder in the second degree under section 565.021, where the underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, assault of a law enforcement officer in the

second degree pursuant to subdivision (4) of subsection 1 of section 565.082, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance;

(5) A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082; and

(6) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a class C felony.

5. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class B felony.

6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior offender, persistent offender, aggravated offender, or chronic offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding.

(1) No prior offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least thirty days **involving at least two hundred forty hours** of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established pursuant to section 478.007 or other court-ordered treatment program, if available.

(2) No persistent offender shall be eligible for parole or probation until he or she has served a minimum of thirty days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least sixty days **involving at least four hundred eighty hours** of community service under the supervision of the court; or

(b) The offender participates in and successfully completes a program established pursuant to section 478.007 or other court-ordered treatment program, if available.

(3) No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment.

(4) No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment. In addition to any other terms or conditions of probation, the court shall consider, as a condition of probation for any person who pleads guilty to or is found guilty of an intoxication-related traffic offense, requiring the offender to abstain from consuming or using alcohol or any products containing alcohol as demonstrated by continuous alcohol monitoring or by verifiable breath alcohol testing performed a minimum of four times per day as scheduled by the court for such duration as determined by the court, but not less than ninety days. The court may, in addition to imposing any other fine, costs, or

assessments provided by law, require the offender to bear any costs associated with continuous alcohol monitoring or verifiable breath alcohol testing.

7. The state, county, or municipal court shall find the defendant to be a prior offender, persistent offender, aggravated offender, or chronic offender if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender.

8. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

10. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

11. The defendant may waive proof of the facts alleged.

12. Nothing in this section shall prevent the use of presentence investigations or commitments.

13. At the sentencing hearing both the state, county, or municipality and the defendant shall be permitted to present additional information bearing on the issue of sentence.

14. The pleas or findings of guilt shall be prior to the date of commission of the present offense.

15. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilt, to assess and declare the punishment as part of its verdict in cases of prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

16. Evidence of a prior conviction, plea of guilty, or finding of guilt in an intoxication-related traffic offense shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence received by a search of the records of the Missouri uniform law enforcement system, including criminal history records from the central repository or records from the driving while intoxicated tracking system (DWITS) maintained by the Missouri state highway patrol, or the certified driving record maintained by the Missouri department of revenue. After hearing the evidence, the court shall enter its findings thereon. A plea of guilty or a finding of guilt followed by incarceration, a fine, a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in any intoxication-related traffic offense in a state, county or municipal court or any combination thereof, shall be treated as a prior plea of guilty or finding of guilt for purposes of this section.

Approved June 16, 2011

HB 204 [HB 204]

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 resident who is on active military duty to renew his or her expired driver's license without a complete examination if the renewal is made within a specified time from discharge or residency

AN ACT to repeal section 41.950, RSMo, and to enact in lieu thereof two new sections relating to driver's license renewal for military personnel.

SECTION

A. Enacting clause.
41.950. Members of military forces called to active duty — relieved from certain provisions of law.
302.186. Active military duty, expiration of driver's license during, renewal without examination, when — rulemaking authority.

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

SECTION A. ENACTING CLAUSE. — Section 41.950, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 41.950 and 302.186, 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 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 **or her** driver's license while performing such military service shall be required to take a complete examination as required under section 302.173 when renewing his **or her** license within **[**sixty**] ninety** days after completing such military service **and reestablishing residence within the state**;

(3) Any motor vehicle registration required under chapter 301 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, 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, and interpreters licensed under sections 209.319 to 209.339, 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 corporate registration 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 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 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 described in subsection 1 of this section who performs such military service on or after August 2, 1990.

302.186. ACTIVE MILITARY DUTY, EXPIRATION OF DRIVER'S LICENSE DURING, RENEWAL WITHOUT EXAMINATION, WHEN — RULEMAKING AUTHORITY. — 1. Notwithstanding any other law, if the driver's license of any person expires while such person is on active duty in the armed forces of the United States, the license of such person shall be renewable, without examination, at any time prior to the end of the sixth month following the discharge of such person from the armed forces, or within ninety days after reestablished residence within the state, whichever time is sooner. Missouri residents on active duty in the armed forces of the United States or any dependent thereof age twenty-one or older residing outside the state of Missouri or the United States may renew their driver's license by mail.

2. The department of revenue may promulgate rules necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2011, shall be invalid and void.

Approved June 16, 2011

HB 213 [SS HCS HB 213]

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 no abortion of a viable, unborn child can be performed or induced except in certain specified situations

AN ACT to repeal sections 188.015, 188.029, and 188.030, RSMo, and to enact in lieu thereof two new sections relating to abortion, with penalty provisions.

SECTION

A. Enacting clause.
188.015. Definitions.
188.030. Abortion of viable unborn child prohibited, exceptions — physician duties — violations, penalty — severability — right of intervention, when.
188.029. Physician, determination of viability, duties.

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

SECTION A. ENACTING CLAUSE. — Sections 188.015, 188.029, and 188.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 188.015 and 188.030, to read as follows:

188.015. DEFINITIONS. — 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**]**
:

(a) The act of using or prescribing any instrument, device, medicine, drug, or any other means or substance with the intent to destroy the life of an embryo or fetus in his or her mother's womb; or

(b) The intentional termination of the pregnancy of a mother by using or prescribing any instrument, device, medicine, drug, or other means or substance 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**] based on reasonable medical** 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 **physical** impairment of a major bodily function of the pregnant woman;

(7) "Physician", any person licensed to practice medicine in this state by the state board of registration for the healing arts;

(8) **"Reasonable medical judgment", a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved;**

(9) "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;

[(9)**] (10)** "Viability" **or "viable"**, 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.

188.030. ABORTION OF VIABLE UNBORN CHILD PROHIBITED, EXCEPTIONS — PHYSICIAN DUTIES — VIOLATIONS, PENALTY — SEVERABILITY — RIGHT OF INTERVENTION, WHEN. — 1. **Except in the case of a medical emergency,** no abortion of a viable unborn child shall be performed **or induced** unless **[**necessary to preserve the life or health of the woman. Before a physician may perform an abortion upon a pregnant woman after such time as her unborn child has become viable, such physician shall first certify in writing that the abortion is necessary to preserve the life or health of the woman and shall further certify in writing the medical indications for such abortion and the probable health consequences.

2. Any physician who performs an abortion upon a woman carrying a viable unborn child shall utilize the available method or technique of abortion most likely to preserve the life and health of the unborn child. In cases where the method or technique of abortion which would most likely preserve the life and health of the unborn child would present a greater risk to the life and health of the woman than another available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

3. An abortion of a viable unborn child shall be performed or induced only when there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for a child born as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the physician required by this section to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the viable unborn child; provided that it does not pose an increased risk to the life or health of the woman.**] the abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. For purposes of this section, "major bodily function" includes, but is not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.**

2. Except in the case of a medical emergency:

(1) Prior to performing or inducing an abortion upon a woman, the physician shall determine the gestational age of the unborn child in a manner consistent with accepted obstetrical and neonatal practices and standards. In making such determination, the physician shall make such inquiries of the pregnant woman and perform or cause to be performed such medical examinations, imaging studies, and tests as a reasonably prudent physician, knowledgeable about the medical facts and conditions of both the woman and the unborn child involved, would consider necessary to perform and consider in making an accurate diagnosis with respect to gestational age.

(2) If the physician determines that the gestational age of the unborn child is twenty weeks or more, prior to performing or inducing an abortion upon the woman, the physician shall determine if the unborn child is viable by using and exercising that degree of care, skill, and proficiency commonly exercised by a skillful, careful, and prudent physician. In making this determination of viability, the physician shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding of the gestational age, weight, and lung maturity of the unborn child and shall enter such findings and determination of viability in the medical record of the woman.

(3) If the physician determines that the gestational age of the unborn child is twenty weeks or more, and further determines that the unborn child is not viable and performs or induces an abortion upon the woman, the physician shall report such findings and determinations and the reasons for such determinations to the health care facility in which the abortion is performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical records of the woman and in the individual abortion report submitted to the department under section 188.052.

(4) (a) If the physician determines that the unborn child is viable, the physician shall not perform or induce an abortion upon the woman unless the abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the woman.

(b) Before a physician may proceed with performing or inducing an abortion upon a woman when it has been determined that the unborn child is viable, the physician shall first certify in writing the medical threat posed to the life of the pregnant woman, or the medical reasons that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. Upon completion of the abortion, the physician shall report the reasons and determinations for the abortion of a viable unborn child to the health care facility in which the abortion is performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical record of the woman and in the individual abortion report submitted to the department under section 188.052.

(c) Before a physician may proceed with performing or inducing an abortion upon a woman when it has been determined that the unborn child is viable, the physician who is to perform the abortion shall obtain the agreement of a second physician with knowledge of accepted obstetrical and neonatal practices and standards who shall concur that the abortion is necessary to preserve the life of the pregnant woman, or that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. This second physician shall also report such reasons and determinations to the health care facility in which the abortion is to be performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical record of the woman and the individual abortion report submitted to the department under section 188.052. The second physician shall not have any legal or financial affiliation or relationship with the physician performing or inducing the abortion, except that such prohibition shall not

apply to physicians whose legal or financial affiliation or relationship is a result of being employed by or having staff privileges at the same hospital as the term "hospital" is defined in section 197.020.

(d) Any physician who performs or induces an abortion upon a woman when it has been determined that the unborn child is viable shall utilize the available method or technique of abortion most likely to preserve the life or health of the unborn child. In cases where the method or technique of abortion most likely to preserve the life or health of the unborn child would present a greater risk to the life or health of the woman than another legally permitted and available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

(e) No physician shall perform or induce an abortion upon a woman when it has been determined that the unborn child is viable unless there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for a child born as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the physician required to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life or health of the viable unborn child; provided that it does not pose an increased risk to the life of the woman or does not pose an increased risk of substantial and irreversible physical impairment of a major bodily function of the woman.

3. Any person who knowingly performs or induces an abortion of an unborn child in violation of the provisions of this section is guilty of a class C felony, and upon a finding of guilt or plea of guilty, shall be imprisoned for a term of not less than one year, and, notwithstanding the provisions of section 560.011, shall be fined not less than ten thousand nor more than fifty thousand dollars.

4. Any physician who pleads guilty to or is found guilty of performing or inducing an abortion of an unborn child in violation of this section shall be subject to suspension or revocation of his or her license to practice medicine in the state of Missouri by the state board of registration for the healing arts under the provisions of sections 334.100 and 334.103.

5. Any hospital licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.070.

6. Any ambulatory surgical center licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.220.

7. A woman upon whom an abortion is performed or induced in violation of this section shall not be prosecuted for a conspiracy to violate the provisions of this section.

8. Nothing in this section shall be construed as creating or recognizing a right to abortion, nor is it the intention of this section to make lawful any abortion that is currently unlawful.

9. It is the intent of the legislature that this section be severable as noted in section 1.140. In the event that any section, subsection, subdivision, paragraph, sentence, or clause of this section be declared invalid under the Constitution of the United States or the Constitution of the State of Missouri, it is the intent of the legislature that the remaining provisions of this section remain in force and effect as far as capable of being carried into execution as intended by the legislature.

10. The general assembly may, by concurrent resolution, appoint one or more of its members who sponsored or co-sponsored this act in his or her official capacity, to

intervene as a matter of right in any case in which the constitutionality of this law is challenged.

[188.029. PHYSICIAN, DETERMINATION OF VIABILITY, DUTIES. — Before a physician performs an abortion on a woman he has reason to believe is carrying an unborn child of twenty or more weeks gestational age, the physician shall first determine if the unborn child is viable by using and exercising that degree of care, skill, and proficiency commonly exercised by the ordinarily skillful, careful, and prudent physician engaged in similar practice under the same or similar conditions. In making this determination of viability, the physician shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding of the gestational age, weight, and lung maturity of the unborn child and shall enter such findings and determination of viability in the medical record of the mother.**]**

No action taken by Governor, bill becomes law pursuant to Article III, Section 31, of the Missouri Constitution.

HB 214 [SCS HCS HB 214]

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 human trafficking

AN ACT to repeal sections 566.200, 566.203, 566.206, 566.209, 566.212, 566.213, 566.218, and 566.223, RSMo, and to enact in lieu thereof eight new sections relating to human trafficking, with penalty provisions.

SECTION

A. Enacting clause.
566.200. Definitions.
566.203. Abusing an individual through forced labor — penalty.
566.206. Trafficking for the purpose of slavery, involuntary servitude, peonage, or forced labor — penalty.
566.209. Trafficking for the purpose of sexual exploitation — penalty.
566.212. Sexual trafficking of a child — penalty.
566.213. Sexual trafficking of a child under age twelve — affirmative defense not allowed, when — penalty.
566.218. Restitution required for certain offenders.
566.223. Federal Trafficking Victims Protection Act of 2000 to apply, when — affirmative defense — procedures to identify victims, training on protocols.

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

SECTION A. ENACTING CLAUSE. — Sections 566.200, 566.203, 566.206, 566.209, 566.212, 566.213, 566.218, and 566.223, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 566.200, 566.203, 566.206, 566.209, 566.212, 566.213, 566.218, and 566.223, to read as follows:

566.200. DEFINITIONS. — As used in sections 566.200 to 566.221, the following terms shall mean:

(1) "Basic rights information", information applicable to a noncitizen, including but not limited to information about human rights, immigration, emergency assistance and resources, and the legal rights and resources for victims of domestic violence;

(2) **"Blackmail", any threat to reveal damaging or embarrassing information about a person to that person's spouse, family, associates, or the public at large, including a threat to expose any secret tending to subject any person to hatred, contempt, or ridicule;**

(3) "Client", a person who is a resident of the United States and the state of Missouri and who contracts with an international marriage broker to meet recruits;

(4) "Coercion":

(a) Threats of serious harm to or physical restraint against any person;

(b) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(c) The abuse or threatened abuse of the legal process;

[(3)**] (5)** "Commercial sex act", any sex act on account of which anything of value is given to**, promised,** or received by any person;

[(4)**] (6)** "Criminal history record information", criminal history record information, including information provided in a criminal background check, obtained from the Missouri state highway patrol and the Federal Bureau of Investigation;

(7) "Financial harm", detriment, injury, or loss of a financial nature, including credit extortion, criminal violation of the usury laws under chapter 408, or employment contracts that violate the statute of frauds provisions under chapter 432;

[(5)**] (8)** "International marriage broker":

(a) A corporation, partnership, business, individual, or other legal entity, whether or not organized under any law of the United States or any other state, that charges fees to residents of Missouri for providing dating, matrimonial, or social referrals or matching services between United States citizens or residents and nonresident aliens by providing information or a forum that would permit individuals to contact each other. Such contact shall include, but is not limited to:

a. Providing the name, telephone number, postal address, electronic mail address, or voice message mailbox of an individual, or otherwise facilitating communication between individuals; or

b. Providing an opportunity for an in-person meeting;

(b) Such term shall not include:

a. A traditional matchmaking organization of a religious nature that operates on a nonprofit basis and otherwise operates in compliance with the laws of the countries in which it operates, including the laws of the United States;

b. An entity that provides dating services between United States citizens or residents and other individuals who may be aliens, but does not do so as its principal business, and charges comparable rates to all individuals it serves regardless of the gender or country of citizenship or residence of the individual; or

c. An organization that does not charge a fee to any party for the services provided;

[(6)**] (9)** "Involuntary servitude or forced labor", a condition of servitude induced by means of:

(a) Any scheme, plan, or pattern of behavior intended to cause a person to believe that, if the person does not enter into or continue the servitude, such person or another person will suffer **[**substantial bodily harm**] serious physical injury** or physical restraint; or

(b) The abuse or threatened abuse of the legal process;

[(7)**] (10)** "Marital history information", a declaration of the person's current marital status, the number of times the person has previously been married, and whether any previous marriages occurred as a result of service from an international marriage broker;

(11) "Nudity", the showing of the human male or female genitals, pubic area, vulva, anus, or any part of the nipple or areola of the female breast;

[(8)**] (12)** "Peonage", illegal and involuntary servitude in satisfaction of debt;

[(9)**] (13)** "Recruit", a noncitizen, nonresident, recruited by an international marriage broker for the purpose of providing dating, matrimonial, or social referral services**;**

(14) "Sexual conduct", sexual intercourse as defined in section 566.010; deviate sexual intercourse as defined in section 566.010; actual or simulated acts of human masturbation; physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification;

(15) "Sexual performance", any play, motion picture, still picture, film, videotape, video recording, dance, or exhibition which includes sexual conduct or nudity, performed before an audience of one or more, whether in person or online or through other forms of telecommunication;

(16) "Victim of trafficking", a person who is a victim of offenses under section 566.203, 566.206, 566.209, 566.212, or 566.213.

566.203. ABUSING AN INDIVIDUAL THROUGH FORCED LABOR — PENALTY. — 1. A person commits the crime of abusing an individual through forced labor by knowingly providing or obtaining the labor or services of a person:

(1) By **[**threats of serious harm or physical restraint against such person or another person**] causing or threatening to cause serious physical injury to any person**;

(2) By physically restraining or threatening to physically restrain another person;

(3) By blackmail;

[(2)**] (4)** By means of any scheme, plan, or pattern of behavior intended to cause such person to believe that, if the person does not perform the labor services, the person or another person will suffer **[**substantial bodily harm or**] serious physical injury,** physical restraint**, or financial harm**; or

[(3)**] (5)** By means of the abuse or threatened abuse of the law or the legal process.

2. A person who pleads guilty to or is found guilty of the crime of abuse through forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, unless such person is otherwise required to register pursuant to the provisions of such section.

3. The crime of abuse through forced labor is a **[**class B**]** felony **punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred and fifty thousand dollars. If death results from a violation of this section, or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony, or an attempt to commit sexual abuse when punishable as a class B felony, or an attempt to kill, it shall be punishable for a term of years not less than five years or life and a fine not to exceed two hundred and fifty thousand dollars**.

566.206. TRAFFICKING FOR THE PURPOSE OF SLAVERY, INVOLUNTARY SERVITUDE, PEONAGE, OR FORCED LABOR — PENALTY. — 1. A person commits the crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor if a person knowingly recruits, **entices,** harbors, transports, provides, or obtains by any means**, including but not limited to, through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm,** another person for labor or services, for the purposes of slavery, involuntary servitude, peonage, or forced labor**, or benefits, financially or by receiving anything of value, from participation in such activities**.

2. A person who pleads guilty to or is found guilty of the crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, unless such person is otherwise required to register pursuant to the provisions of such section.

3. **[**The crime of**]** **Except as provided in subsection 4 of this section,** trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor is a **[**class B**]** felony **punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred and fifty thousand dollars.**

4. If death results from a violation of this section, or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony or an attempt to commit sexual abuse when the sexual abuse attempted is punishable as a class B felony, or an attempt to kill, it shall be punishable by imprisonment for a term of years not less than five years or life and a fine not to exceed two hundred and fifty thousand dollars.

566.209. TRAFFICKING FOR THE PURPOSE OF SEXUAL EXPLOITATION — PENALTY. — 1. A person commits the crime of trafficking for the purposes of sexual exploitation if a person knowingly recruits, **entices, harbors,** transports, provides, or obtains by any means**, including but not limited to, through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm,** another person for the use or employment of such person in sexual conduct **[**as defined in section 556.061**]** **, a sexual performance, or the production of explicit sexual material as defined in section 573.010,** without his or her consent**, or benefits, financially or by receiving anything of value, from participation in such activities**.

2. The crime of trafficking for the purposes of sexual exploitation is a **[**class B**]** felony **punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred and fifty thousand dollars. If a violation of this section was effected by force, abduction, or coercion, the crime of trafficking for the purposes of sexual exploitation is a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred and fifty thousand dollars**.

566.212. SEXUAL TRAFFICKING OF A CHILD — PENALTY. — 1. A person commits the crime of sexual trafficking of a child if the individual knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means**, including but not limited to, through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm,** a person under the age of eighteen to participate in a commercial sex act**, a sexual performance, or the production of explicit sexual material as defined in section 573.010,** or benefits, financially or by receiving anything of value, from participation in such activities; or

(2) Causes a person under the age of eighteen to engage in a commercial sex act**, a sexual performance, or the production of explicit sexual material as defined in section 573.010**.

2. It shall not be **[**an affirmative**]** **a** defense that the defendant believed that the person was eighteen years of age or older.

3. **[**The crime of**]** Sexual trafficking of a child is a **[**class A**]** felony **punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars** if the child is under the age of eighteen. **If a violation of this section was effected by force, abduction, or coercion, the crime of sexual trafficking of a child shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence.**

566.213. SEXUAL TRAFFICKING OF A CHILD UNDER AGE TWELVE — AFFIRMATIVE DEFENSE NOT ALLOWED, WHEN — PENALTY. — 1. A person commits the crime of sexual trafficking of a child under the age of twelve if the individual knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means**, including but not limited to, through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm,** a person under the age of twelve to participate in a commercial sex act**, a sexual performance, or the production of explicit sexual material as defined in section 573.010,** or benefits, financially or by receiving anything of value, from participation in such activities; or

(2) Causes a person under the age of twelve to engage in a commercial sex act**, a sexual performance, or the production of explicit sexual material as defined in section 573.010**.

2. It shall not be **[**an affirmative**] a** defense that the defendant believed that the person was twelve years of age or older.

3. Sexual trafficking of a child less than twelve years of age shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence. Subsection 4 of section 558.019 shall not apply to the sentence of a person who has pleaded guilty to or been found guilty of sexual trafficking of a child less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

566.218. RESTITUTION REQUIRED FOR CERTAIN OFFENDERS. — Notwithstanding sections 557.011, 558.019, and 559.021, a court sentencing **[**an offender**] a defendant** convicted of violating the provisions of **[**sections**] section** 566.203, 566.206, 566.209, 566.212, **[**and 566.215**] or 566.213** shall order the **[**offender**] defendant** to pay restitution to the victim of the offense **regardless of whether the defendant is sentenced to a term of imprisonment or probation. The minimum restitution ordered by the court shall be in the amount determined by the court necessary to compensate the victim for the value of the victim's labor and/or for the mental and physical rehabilitation of the victim and any child of the victim**.

566.223. FEDERAL TRAFFICKING VICTIMS PROTECTION ACT OF 2000 TO APPLY, WHEN — AFFIRMATIVE DEFENSE — PROCEDURES TO IDENTIFY VICTIMS, TRAINING ON PROTOCOLS. — 1. Any individual who is alleging that a violation of sections 566.200 to 566.221 has occurred against his or her person shall be afforded the rights and protections provided in the federal Trafficking Victims Protection Act of 2000, Public Law 106-386, as amended.

2. It is an affirmative defense for the offense of prostitution under section 567.020 that the defendant engaged in the conduct charged to constitute an offense because he or she was coerced to do so by the use of, or threatened use of, unlawful physical force upon himself or herself or a third person, which force or threatened force a person of reasonable firmness in his or her situation would have been unable to resist.

3. The department of public safety is authorized to establish procedures for identifying victims of trafficking under sections 566.200 to 566.223. The department may establish training programs as well as standard protocols for appropriate agencies to educate officials and employees on state statutes and federal laws regulating human trafficking and with the identification and assistance of victims of human trafficking. Such agencies may include but not be limited to state employees and contractors, including the children's division of the department of social services, juvenile courts, state law enforcement agencies, health care professionals, and runaway and homeless youth shelter administrators.

4. As soon as possible after a first encounter with a person who reasonably appears to a law enforcement agency to be a victim of trafficking as defined in section 566.200, that agency or office shall notify the department of social services and, where applicable, juvenile justice authorities, that the person may be a victim of trafficking, in order that

such agencies may determine whether the person may be eligible for state or federal services, programs, or assistance.

5. The department of social services may coordinate with relevant state, federal, and local agencies to evaluate appropriate services for victims of trafficking. State agencies may implement programs and enter into contracts with nonprofit agencies, domestic and sexual violence shelters, and other nongovernment organizations to provide services to confirmed victims of trafficking, insofar as funds are available for that purpose. Such services may include, but are not limited to, case management, emergency temporary housing, health care, mental health counseling, alcohol and drug addiction screening and treatment, language interpretation and translation services, English language instruction, job training, and placement assistance.

6. A victim of trafficking may bring a civil action against a person or persons who plead guilty to or are found guilty of a violation of section 566.203, 566.206, 566.209, 566.212, or 566.213, to recover the actual damages sustained by the victim, court costs, including reasonable attorney's fees, and punitive damages, when determined to be appropriate by the court. Any action commenced under this section shall be filed within ten years after the later of:

(1) The final order in the related criminal case;

(2) The victim's emancipation from the defendant; or

(3) The victim's eighteenth birthday.

7. The attorney general may bring a civil action, in the circuit court in which the victim of trafficking was found, to recover from any person or entity that benefits, financially or by receiving anything of value, from violations of section 566.203, 566.206, 566.209, 566.212, or 566.213, a civil penalty of not more than fifty thousand dollars for each violation of section 566.203, 566.206, 566.209, 566.212, or 566.213, and injunctive and other equitable relief as the court may, in its discretion, order. The first priority of any money or property collected under such an action shall be to pay restitution to the victims of trafficking on whose behalf the civil action was brought.

Approved July 12, 2011

HB 217 [HB 217]

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 an election authority to use an electronic voter identification system or electronic signature pad to verify voter identification information at any polling place

AN ACT to amend chapter 115, RSMo, by adding thereto one new section relating to electronic voter identification verification systems.

SECTION

A. Enacting clause.

115.230. Voter verification, electronic system or pad authorized.

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

SECTION A. ENACTING CLAUSE. — Chapter 115, RSMo, is amended by adding thereto one new section, to be known as section 115.230, to read as follows:

115.230. VOTER VERIFICATION, ELECTRONIC SYSTEM OR PAD AUTHORIZED. — Notwithstanding any other provision of law to the contrary, any election authority may use an electronic voter identification system or an electronic signature pad to verify a voter's address, registration status, and signature information at any polling place. Any such system or pad shall be able to read identifying information from an official Missouri driver's license or nondriver's license issued by the department of revenue, and shall be capable of allowing an election authority to manually enter the voter's information from a valid form of personal identification containing the voter's signature.

Approved July 8, 2011

HB 220 [HCS 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.

Specifies that the ordering of a report or an inspection alone will not constitute selecting or engaging a person regarding a real estate licensee's immunity from liability for certain expert statements

AN ACT to repeal section 339.190, RSMo, and to enact in lieu thereof one new section relating to real estate licensees.

SECTION

A. Enacting clause.
339.190. Real estate licensee, immunity from liability, when.

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

SECTION A. ENACTING CLAUSE. — Section 339.190, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 339.190, to read as follows:

339.190. REAL ESTATE LICENSEE, IMMUNITY FROM LIABILITY, WHEN. — 1. A real estate licensee shall be immune from liability for statements made by engineers, land surveyors, geologists, environmental hazard experts, wood-destroying inspection and control experts, termite inspectors, mortgage brokers, home inspectors, or other home inspection experts unless:

(1) The statement was made by a person employed by the licensee or the broker with whom the licensee is associated;

(2) The person making the statement was selected by and engaged by the licensee**. For purposes of this section, the ordering of a report or inspection alone shall not constitute selecting or engaging a person**; or

(3) The licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false.

2. A real estate licensee shall not be the subject of any action and no action shall be instituted against a real estate licensee for any information contained in a seller's disclosure for residential, commercial, industrial, farm, or vacant real estate furnished to a buyer, unless the real estate licensee is a signatory to such or the licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false.

3. A real estate licensee acting as a courier of documents referenced in this section shall not be considered to be making the statements contained in such documents.

Approved July 7, 2011

HB 223 [HCS HB 223 & 231]

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 Nursing Education Incentive Program and authorizes a nonrenewable advanced placement grant to certain recipients of financial aid under the A+ Schools or Access Missouri programs

AN ACT to repeal sections 335.036, 335.200, 335.203, 335.206, and 335.209, RSMo, and to enact in lieu thereof four new sections relating to higher education financial assistance programs.

SECTION

A. Enacting clause.
173.1350. Grants authorized, amount, eligibility.
335.036. Duties of board — fees set, how — fund, source, use, funds transferred from, when — rulemaking.
335.200. Nurse education incentive grants — definitions.
335.203. Nursing education incentive program established — grants authorized, limit, eligibility — administration — rulemaking authority.
335.206. Nurse training incentive fund — grants — amounts.
335.209. Administrative rules — procedure.

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

SECTION A. ENACTING CLAUSE. — Sections 335.036, 335.200, 335.203, 335.206, and 335.209, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 173.1350, 335.036, 335.200, and 335.203, to read as follows:

173.1350. GRANTS AUTHORIZED, AMOUNT, ELIGIBILITY. — Subject to appropriation, the department of higher education shall make available a nonrenewable "Advanced Placement Incentive Grant" of five hundred dollars to any student who receives an award under the access Missouri financial assistance program established in sections 173.1101 to 173.1107, or the A+ schools program established under section 160.545, and in addition has received two grades of three or higher on advanced placement examinations in the fields of mathematics or science while attending a Missouri public high school.

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 10 of section 324.001 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 insurance, financial institutions and professional registration;

(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. **The board is authorized to provide funding for the nursing education incentive program established in sections 335.200 to 335.203.**

4. The provisions of section 33.080 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, 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 and, if applicable, section 536.028. 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 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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.

335.200. NURSE EDUCATION INCENTIVE GRANTS — DEFINITIONS. — As used in sections 335.200 to **[**335.209**] 335.203**, the following terms mean:

(1) "Board", the **[**Missouri coordinating board for higher education**] state board of nursing**;

(2) **"Department", the Missouri department of higher education;**

(3) "Eligible **[**nursing program**] institution of higher education**", **a Missouri institution of higher education accredited by the higher learning commission of the north central association which offers** a nursing education program **[**accredited under this chapter**]**;

[(3) "Fund", the nurse training incentive fund, established in section 335.203;**]**

(4) "**[**Incentive**]** Grant", a grant awarded to **[**a nurse education program**] an eligible institution of higher education** under the guidelines set forth in sections **335.200 to** 335.203 **[**to 335.209;

(5) "Nontraditional student", a person admitted to an eligible nursing program that is older than twenty-two years of age at the time he is admitted to the nursing program;

(6) "Nurse", a person holding a license as a registered nurse, pursuant to this chapter; and

(7) "Professional nursing education program", a program of education accredited by the state board of nursing, pursuant to this chapter, designed to prepare persons for licensure as registered professional nurses with an enrollment of no less than sixty-five percent of the enrollment approved by the state board of nursing**]**.

335.203. NURSING EDUCATION INCENTIVE PROGRAM ESTABLISHED — GRANTS AUTHORIZED, LIMIT, ELIGIBILITY — ADMINISTRATION — RULEMAKING AUTHORITY. — **[**The "Nurse Training Incentive Fund" is hereby established in the state treasury. The fund shall be administered by the coordinating board for higher education. The board shall base its appropriation request on enrollment, graduation and licensure figures for the previous year. The board may accept funds from private, federal and other sources for the purposes of sections 335.200 to 335.209. All appropriations, private donations, and other funds provided to the board for the implementation of sections 335.200 to 335.209 shall be placed in the nurse training incentive fund. Notwithstanding the provisions of section 33.080 to the contrary, funds in the nurse training incentive fund shall not revert to the general revenue fund. Interest accruing to the fund shall be part of the fund. Grants provided pursuant to section 335.206 shall be made within the amounts appropriated therefor.**] 1. There is hereby established the "Nursing Education Incentive Program" within the department of higher education.**

2. Subject to appropriation, grants shall be awarded through the nursing education incentive program to eligible institutions of higher education based on criteria jointly determined by the board and the department. Grant award amounts shall not exceed one hundred fifty thousand dollars. No campus shall receive more than one grant per year.

3. To be considered for a grant, an eligible institution of higher education shall offer a program of nursing that meets the predetermined category and area of need as established by the board and the department under subsection 4 of this section.

4. The board and the department shall determine categories and areas of need for designating grants to eligible institutions of higher education. In establishing categories and areas of need, the board and department may consider criteria including, but not limited to:

(1) Data generated from licensure renewal data and the department of health and senior services; and

(2) National nursing statistical data and trends that have identified nursing shortages.

5. The department shall be the administrative agency responsible for implementation of the program established under sections 335.200 to 335.203, and shall promulgate reasonable rules for the exercise of its functions and the effectuation of the purposes of sections 335.200 to 335.203. The department shall, by rule, prescribe the form, time, and method of filing applications and shall supervise the processing of such applications.

6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2011, shall be invalid and void.

[335.206. NURSE TRAINING INCENTIVE FUND — GRANTS — AMOUNTS. — 1. The nurse training incentive fund shall, upon appropriation, be used to provide incentive grants to eligible nursing programs which increase enrollment. Grants shall not be awarded to classes begun on or after July 1, 1996.

2. Grants shall be awarded to eligible nursing programs which increase enrollment pursuant to subsection 3 of this section. Eligible programs receiving grants provided under sections 335.200 to 335.209 shall monitor the enrollment of nontraditional students in their program and shall annually report to the board the number of nontraditional students enrolled therein. It shall be the intent of sections 335.200 to 335.209 to encourage the enrollment and graduation of nontraditional students in nursing education programs.

3. Incentive grants shall be awarded to professional nurse education programs, as follows:

(1) A grant of eight thousand dollars for each entering class of ten students by which the program increases its enrollment over the number of entering students admitted in the fall of 1989; and

(2) A grant of four hundred dollars for each student from each entering class cited in subdivision (1) of this section by which the program increases its number of graduates over the number of students graduated in the preceding year; or

(3) Beginning with the first graduating class of the classes which enter and are enrolled after August 28, 1990, a grant of four hundred dollars for each student by which the program increases its number of graduates over the number of graduates of the preceding year, if the program is not otherwise qualified to receive the grant provided pursuant to subdivision (1) of this section.**]**

[335.209. ADMINISTRATIVE RULES — PROCEDURE. — No rule or portion of a rule promulgated under the authority of sections 335.200 to 335.209 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.**]**

Approved June 16, 2011

HB 229 [HB 229]

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 Public School Retirement System of Kansas City

AN ACT to repeal sections 169.270, 169.280, 169.301, 169.324, and 169.328, RSMo, and to enact in lieu thereof five new sections relating to school retirement systems.

SECTION

A. Enacting clause.
169.270. Definitions.
169.280. Retirement system created — system, how managed — federal qualified plan, intent as, administration of plan, effect on.
169.301. Retirement benefits to vest, when — amount, how computed — option of certain members to transfer plans, requirements — retirant becoming active member, effect on benefits — termination of system, effect of — military service, effect of.
169.324. Retirement allowances, minimum amounts — retirants may substitute without affecting allowance, limitation — annual determination of ability to provide benefits, standards — action plan for use of minority and women money managers, brokers and investment counselors.
169.328. Accumulated contributions returned to member, when — eligible rollover distributions, election for distribution.

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

SECTION A. ENACTING CLAUSE. — Sections 169.270, 169.280, 169.301, 169.324, and 169.328, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 169.270, 169.280, 169.301, 169.324, and 169.328, to read as follows:

169.270. DEFINITIONS. — Unless a different meaning is clearly required by the context, the following words and phrases as used in sections 169.270 to 169.400 shall have the following meanings:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member or paid on behalf of the member by the employer and credited to the member's individual account together with interest thereon in the employees' contribution fund. The board of trustees shall determine the rate of interest allowed thereon as provided for in section 169.295;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of formulas and/or tables which have been approved by the board of trustees**. The formulas and tables in effect at any time shall be set forth in a written document which shall be maintained at the offices of the retirement system and treated for all purposes as part of the documents governing the retirement system established by section 169.280. The formulas and tables may be changed from time to time if recommended by the retirement system's actuary and approved by the board of trustees**;

(3) "Average final compensation", the highest average annual compensation received for any four consecutive years of service. In determining whether years of service are "consecutive", only periods for which creditable service is earned shall be considered, and all other periods shall be disregarded;

(4) "Beneficiary", any person designated by a member for a retirement allowance or other benefit as provided by sections 169.270 to 169.400;

(5) "Board of education", the board of directors or corresponding board, by whatever name, having charge of the public schools of the school district in which the retirement system is established;

(6) "Board of trustees", the board provided for in section 169.291 to administer the retirement system;

(7) "Break in service", an occurrence when a regular employee ceases to be a regular employee for any reason other than retirement (including termination of employment, resignation, or furlough but not including vacation, sick leave, excused absence or leave of absence granted by an employer) and such person does not again become a regular employee until after sixty consecutive calendar days have elapsed, or after fifteen consecutive school or work days have elapsed, whichever occurs later. A break in service also occurs when a regular employee retires under the retirement system established by section 169.280 and does not again become a regular employee until after fifteen consecutive school or work days have elapsed. A "school or work day" is a day on which the employee's employer requires (or if the position no longer exists, would require, based on past practice) employees having the former employee's last job description to report to their place of employment for any reason;

(8) "Charter school", any charter school established pursuant to sections 160.400 to 160.420 and located, at the time it is established, within the school district;

(9) "Compensation", the regular compensation as shown on the salary and wage schedules of the employer, including any amounts paid by the employer on a member's behalf pursuant to subdivision (5) of subsection 1 of section 169.350, but such term is not to include extra pay, overtime pay, consideration for entering into early retirement, or any other payments not included on salary and wage schedules. For any year beginning after December 31, 1988, the annual compensation of each member taken into account under the retirement system shall not exceed the limitation set forth in Section 401(a)(17) of the Internal Revenue Code of 1986, as amended;

(10) "Creditable service", the amount of time that a regular employee is a member of the retirement system and makes contributions thereto in accordance with the provisions of sections 169.270 to 169.400;

(11) "Employee", any person who is classified by the school district, a charter school, the library district or the retirement system established by section 169.280 as an employee of such employer and is reported contemporaneously for federal and state tax purposes as an employee of such employer. A person is not considered to be an employee for purposes of such retirement system with respect to any service for which the person was not reported contemporaneously for federal and state tax purposes as an employee of such employer, regardless of whether the person is or may later be determined to be or to have been a common law employee of such employer,

including but not limited to a person classified by the employer as independent contractors and persons employed by other entities which contract to provide staff and services to the employer. In no event shall a person reported for federal tax purposes as an employee of a private, for-profit entity be deemed to be an employee eligible to participate in the retirement system established by section 169.280 with respect to such employment;

(12) "Employer", the school district, any charter school, the library district, or the retirement system established by section 169.280, or any combination thereof, as required by the context to identify the employer of any member, or, for purposes only of subsection 2 of section 169.324, of any retirant;

(13) "Employer's board", the board of education, the governing board of any charter school, the board of trustees of the library district, the board of trustees, or any combination thereof, as required by the context to identify the governing body of an employer;

(14) "Library district", any urban public library district created from or within a school district under the provisions of section 182.703;

(15) "Medical board", the board of physicians provided for in section 169.291;

(16) "Member", any person who is a regular employee after the retirement system has been established hereunder ("active member"), and any person who (i) was an active member, (ii) has vested retirement benefits hereunder, and (iii) is not receiving a retirement allowance hereunder ("inactive member");

(17) "Minimum normal retirement age", the earlier of the date the member attains the age of sixty or the date the member has a total of at least seventy-five credits, with each year of creditable service and each year of age equal to one credit, with both years of creditable service and years of age prorated for fractional years;

(18) "Prior service", service prior to the date the system becomes operative which is creditable in accordance with the provisions of section 169.311. Prior service in excess of thirty-eight years shall be considered thirty-eight years;

(19) "Regular employee", any employee who is assigned to an established position which requires service of not less than twenty-five hours per week, and not less than nine calendar months a year. Any regular employee who is subsequently assigned without break in service to a position demanding less service than is required of a regular employee shall continue the employee's status as a regular employee. Except as stated in the preceding sentence, a temporary, part-time, or furloughed employee is not a regular employee;

(20) "Retirant", a former member receiving a retirement allowance hereunder;

(21) "Retirement allowance", annuity payments to a retirant or to such beneficiary as is entitled to same;

(22) "School district", any school district in which a retirement system shall be established under section 169.280.

169.280. RETIREMENT SYSTEM CREATED — SYSTEM, HOW MANAGED — FEDERAL QUALIFIED PLAN, INTENT AS, ADMINISTRATION OF PLAN, EFFECT ON. — 1. In each school district of this state (i) that now has or may hereafter have a population of not more than seven hundred thousand and (ii) not less than seventy percent of whose population resides in a city other than a city not within a county which now has or may hereafter have a population of four hundred thousand or more, according to the latest United States decennial census, there is hereby created and established a retirement system for the purpose of providing retirement allowances and related benefits for employees of the employer. Each such system shall be under the management of a board of trustees herein described, and shall be known as "The Public School Retirement System of (name of school district)", and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held. When a school district first satisfies the foregoing population conditions, the board of education shall adopt a resolution certifying the same and take all actions necessary to cause the retirement system to begin operation on the thirtieth day of September following such certification.

2. In the event that (i) the population of a school district having a retirement system created hereunder should increase to a number greater than seven hundred thousand, or (ii) the population of the city in which not less than seventy percent of the population of the school district resides should decrease to a number less than four hundred thousand, or (iii) less than seventy percent of the population of the school district should reside in a city having a population of at least four hundred thousand, or (iv) the corporate organization of the school district shall lapse in accordance with subsections 1 and 4 of section 162.081, the retirement system of such school district shall continue to be governed by and subject to sections 169.270 to 169.400 and all other statutes, rules, and regulations applicable to retirement systems in school districts having a population of not more than seven hundred thousand and not less than seventy percent of whose population resides in a city, other than a city not within a county, of four hundred thousand or more, as if the population of such school district and city continued to be within such numerical limits.

3. The plan of retirement benefits administered by the retirement system established hereby is intended to be a qualified plan under the provisions of applicable federal law. The board of trustees shall interpret the statutes governing the retirement system and shall administer the retirement system in all respects consistent with such intent. The assets of the retirement system shall be held in trust for the exclusive benefit of members and their beneficiaries and for defraying reasonable administrative expenses of the retirement system. No part of such assets shall, at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries, be used for or diverted to any purposes other than for such exclusive benefit or for any purpose inconsistent with the requirements of sections 169.270 to 169.400.

169.301. RETIREMENT BENEFITS TO VEST, WHEN — AMOUNT, HOW COMPUTED — OPTION OF CERTAIN MEMBERS TO TRANSFER PLANS, REQUIREMENTS — RETIRANT BECOMING ACTIVE MEMBER, EFFECT ON BENEFITS — TERMINATION OF SYSTEM, EFFECT OF — MILITARY SERVICE, EFFECT OF. — 1. Any active member who has completed five or more years of actual (not purchased) creditable service shall be entitled to a vested retirement benefit equal to the annual service retirement allowance provided in sections 169.270 to 169.400 payable after attaining the minimum normal retirement age and calculated in accordance with the law in effect on the last date such person was a regular employee; provided, that such member does not withdraw such person's accumulated contributions pursuant to section 169.328 prior to attaining the minimum normal retirement age.

2. Any member who elected on October 13, 1961, or within thirty days thereafter, to continue to contribute and to receive benefits under sections 169.270 to 169.400 may continue to be a member of the retirement system under the terms and conditions of the plan in effect immediately prior to October 13, 1961, or may, upon written request to the board of trustees, transfer to the present plan, provided that the member pays into the system any additional contributions with interest the member would have credited to the member's account if such person had been a member of the current plan since its inception or, if the person's contributions and interest are in excess of what the person would have paid, such person will receive a refund of such excess. The board of trustees shall adopt appropriate rules and regulations governing the operation of the plan in effect immediately prior to October 13, 1961.

3. Should a retirant again become an active member, such person's retirement allowance payments shall cease during such membership and shall be recalculated upon subsequent retirement to include any creditable service earned during the person's latest period of active membership in accordance with subsection 2 of section 169.324.

4. In the event of the complete termination of the retirement system established by section 169.280 or the complete discontinuance of contributions to such retirement system, the rights of all members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall be fully vested and nonforfeitable.

5. If a member leaves employment with an employer to perform qualified military service, as defined in Section 414(u) of the Internal Revenue Code of 1986, as amended, and dies while in such service, the member's survivors shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would have been provided had the member resumed employment with the employer and then terminated on account of death in accordance with the requirements of Sections 407(a)(37) and 414(u) of the Internal Revenue Code of 1986, as amended. In such event, the member's period of qualified military services shall be counted as creditable service for purposes of vesting but not for purposes of determining the amount of the member's retirement allowance.

169.324. RETIREMENT ALLOWANCES, MINIMUM AMOUNTS — RETIRANTS MAY SUBSTITUTE WITHOUT AFFECTING ALLOWANCE, LIMITATION — ANNUAL DETERMINATION OF ABILITY TO PROVIDE BENEFITS, STANDARDS — ACTION PLAN FOR USE OF MINORITY AND WOMEN MONEY MANAGERS, BROKERS AND INVESTMENT COUNSELORS. — 1. The annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable service multiplied by one and three-fourths percent of the person's average final compensation, subject to a maximum of sixty percent of the person's average final compensation. For any member who retires as an active member on or after June 30, 1999, the annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable service multiplied by two percent of the person's average final compensation, subject to a maximum of sixty percent of the person's average final compensation. Any member whose number of years of creditable service is greater than thirty-four and one-quarter on August 28, 1993, shall receive an annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life equal to the retirant's number of years of creditable service as of August 28, 1993, multiplied by one and three-fourths percent of the person's average final compensation but shall not receive a greater annual service retirement allowance based on additional years of creditable service after August 28, 1993. Provided, however, that, effective January 1, 1996, any retiree who retired on, before or after January 1, 1996, with at least twenty years of creditable service shall receive at least three hundred dollars each month as a retirement allowance, or the actuarial equivalent thereof if the retiree elected any of the options available under section 169.326. Provided, further, any retiree who retired with at least ten years of creditable service shall receive at least one hundred fifty dollars each month as a retirement allowance, plus fifteen dollars for each additional full year of creditable service greater than ten years but less than twenty years (or the actuarial equivalent thereof if the retiree elected any of the options available under section 169.326). Any beneficiary of a deceased retiree who retired with at least ten years of creditable service and elected one of the options available under section 169.326 shall also be entitled to the actuarial equivalent of the minimum benefit provided by this subsection, determined from the option chosen.

2. Except as otherwise provided in sections 169.331, 169.580 and 169.585, payment of a retirant's retirement allowance will be suspended for any month for which such person receives remuneration from the person's employer or from any other employer in the retirement system established by section 169.280 for the performance of services except any such person other than a person receiving a disability retirement allowance under section 169.322 may serve as a nonregular substitute, part-time or temporary employee for not more than six hundred hours in any school year without becoming a member and without having the person's retirement allowance discontinued**, provided that through such substitute, part-time, or temporary employment, the person may earn no more than fifty percent of the annual salary or wages the person was last paid by the employer before the person retired and commenced receiving a retirement allowance, adjusted for inflation. If a person exceeds such hours limit or such compensation limit, payment of the person's retirement allowance shall be**

suspended for the month in which such limit was exceeded and each subsequent month in the school year for which the person receives remuneration from any employer in the retirement system. If a retirant is reemployed by any employer in any capacity, whether pursuant to this section, or section 169.331, 169.580, or 169.585, or as a regular employee, the amount of such person's retirement allowance attributable to service prior to the person's first retirement date shall not be changed by the reemployment. If the person again becomes an active member and earns additional creditable service, upon the person's second retirement the person's retirement allowance shall be the sum of:

(1) The retirement allowance the person was receiving at the time the person's retirement allowance was suspended, pursuant to the payment option elected as of the first retirement date, plus the amount of any increase in such retirement allowance the person would have received pursuant to subsection 3 of this section had payments not been suspended during the person's reemployment; and

(2) An additional retirement allowance computed using the benefit formula in effect on the person's second retirement date, the person's creditable service following reemployment, and the person's average **final** annual compensation as of the second retirement date. The sum calculated pursuant to this subsection shall not exceed the greater of sixty percent of the person's average final compensation as of the second retirement date or the amount determined pursuant to subdivision (1) of this subsection. Compensation earned prior to the person's first retirement date shall be considered in determining the person's average final compensation as of the second retirement date if such compensation would otherwise be included in determining the person's average final compensation.

3. The board of trustees shall determine annually whether the investment return on funds of the system can provide for an increase in benefits for retirants eligible for such increase. A retirant shall and will be eligible for an increase awarded pursuant to this section as of the second January following the date the retirant commenced receiving retirement benefits. Any such increase shall also apply to any monthly joint and survivor retirement allowance payable to such retirant's beneficiaries, regardless of age. The board shall make such determination as follows:

(1) After determination by the actuary of the investment return for the preceding year as of December thirty-first (the "valuation year"), the actuary shall recommend to the board of trustees what portion of the investment return is available to provide such benefits increase, if any, and shall recommend the amount of such benefits increase, if any, to be implemented as of the first day of the thirteenth month following the end of the valuation year, and the first payable on or about the first day of the fourteenth month following the end of the valuation year. The actuary shall make such recommendations so as not to affect the financial soundness of the retirement system, recognizing the following safeguards:

(a) The retirement system's funded ratio as of January first of the year preceding the year of a proposed increase shall be at least one hundred percent after adjusting for the effect of the proposed increase. The funded ratio is the ratio of assets to the pension benefit obligation;

(b) The actuarially required contribution rate, after adjusting for the effect of the proposed increase, may not exceed the statutory contribution rate;

(c) The actuary shall certify to the board of trustees that the proposed increase will not impair the actuarial soundness of the retirement system;

(d) A benefit increase, under this section, once awarded, cannot be reduced in succeeding years;

(2) The board of trustees shall review the actuary's recommendation and report and shall, in their discretion, determine if any increase is prudent and, if so, shall determine the amount of increase to be awarded.

4. This section does not guarantee an annual increase to any retirant.

5. If an inactive member becomes an active member after June 30, 2001, and after a break in service, unless the person earns at least four additional years of creditable service without another break in service, upon retirement the person's retirement allowance shall be calculated

separately for each separate period of service ending in a break in service. The retirement allowance shall be the sum of the separate retirement allowances computed for each such period of service using the benefit formula in effect, the person's average final compensation as of the last day of such period of service and the creditable service the person earned during such period of service; provided, however, if the person earns at least four additional years of creditable service without another break in service, all of the person's creditable service prior to and including such service shall be aggregated and, upon retirement, the retirement allowance shall be computed using the benefit formula in effect and the person's average final compensation as of the last day of such period of four or more years and all of the creditable service the person earned prior to and during such period.

6. Notwithstanding anything contained in this section to the contrary, the amount of the annual service retirement allowance payable to any retirant pursuant to the provisions of sections 169.270 to 169.400, including any adjustments made pursuant to subsection 3 of this section, shall at all times comply with the provisions and limitations of Section 415 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder, the terms of which are specifically incorporated herein by reference.

7. All retirement systems established by the laws of the state of Missouri shall develop a procurement action plan for utilization of minority and women money managers, brokers and investment counselors. Such retirement systems shall report their progress annually to the joint committee on public employee retirement and the governor's minority advocacy commission.

169.328. ACCUMULATED CONTRIBUTIONS RETURNED TO MEMBER, WHEN — ELIGIBLE ROLLOVER DISTRIBUTIONS, ELECTION FOR DISTRIBUTION. — 1. Should a member cease to be a regular employee, except by retirement, the member, if living, shall be paid on demand, made by written notice to the board of trustees, the amount of the person's accumulated contributions (with interest as determined by the board of trustees as provided in sections 169.270 to 169.400) standing to the credit of the person's individual account in the employees' contribution fund. The accumulated contributions with interest shall not be paid to a member so long as the person remains a regular employee or before the member incurs a break in service. If the member dies before retirement such accumulated contributions (with interest) shall be paid to the member's estate or designated beneficiary unless the provisions of subsection 3 of section 169.326 apply.

2. If a former unvested member's accumulated contributions have not been withdrawn four years after the person has ceased to be a member (other than by reason of death or retirement), the board of trustees shall pay the same to such former member within a reasonable time after the expiration of such four-year period.

3. If, on account of undeliverability, improper mailing or forwarding address, or other similar problem, the board of trustees is unable to refund the accumulated contributions of a former unvested member or to commence payment of retirement benefits within four years after the end of the calendar year in which such former member ceased to be a regular employee, the board may transfer the accumulated contributions to the general reserve fund. If, thereafter, written application is made to the board of trustees for such refund or benefits, the board shall cause the same to be paid from the general reserve fund, but no interest shall be accrued after the end of the fourth year following the end of the calendar year in which such former member ceased to be a regular employee.

4. In its discretion the board of trustees may approve extensions of any time periods in this section on account of a former member's military or naval service, academic study or illness.

5. Any member or beneficiary who is entitled to receive a distribution that is an eligible rollover distribution, as defined in Section 402(c)(4) of the Internal Revenue Code of 1986, as amended, may elect to have that distribution transferred directly to another eligible retirement plan, as defined in Section 402(c)(8) of the Internal Revenue Code of 1986, as amended, designated by the member or beneficiary in accordance with

procedures established by the board of trustees. An eligible rollover distribution shall include a distribution to a nonspouse beneficiary that is treated as an eligible rollover distribution under Section 402(c)(11) of the Internal Revenue Code of 1986, as amended. All such transfers shall be made in compliance with the requirements of Section 401(a)(31) of the Internal Revenue Code of 1986, as amended, and regulations thereunder.

Approved June 16, 2011

HB 250 [HCS HB 250]

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 water well regulations

AN ACT to amend chapter 640, RSMo, by adding thereto one new section relating to well water.

SECTION
A. Enacting clause.
640.116. Exemption from rules, system exclusively serving charitable or benevolent organization, when.

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

SECTION A. ENACTING CLAUSE. — Chapter 640, RSMo, is amended by adding thereto one new section, to be known as section 640.116, to read as follows:

640.116. EXEMPTION FROM RULES, SYSTEM EXCLUSIVELY SERVING CHARITABLE OR BENEVOLENT ORGANIZATION, WHEN. — 1. Any water system that exclusively serves a charitable or benevolent organization, if the system does not regularly serve an average of one hundred persons or more at least sixty days out of the year and the system does not serve a school or day-care facility, shall be exempt from all rules relating to well construction except any rules established under sections 256.600 to 256.640 applying to multifamily wells, unless such wells or pump installations for such wells are determined to present a threat to groundwater or public health.

2. If the system incurs three or more total coliform maximum contaminant level violations in a twelve-month period or one acute maximum contaminant level violation, the system owner shall either provide an alternate source of water, eliminate the source of contamination, or provide treatment that reliably achieves at least ninety-nine and ninety-nine one-hundredths percent treatment of viruses.

3. Notwithstanding this or any other provision of law to the contrary, no facility otherwise described in subsection 1 of this section shall be required to replace, change, upgrade, or otherwise be compelled to alter an existing well constructed prior to August 28, 2011, unless such well is determined to present a threat to groundwater or public health or contains the contaminant levels referred to in subsection 2 of this section.

Approved June 22, 2011

HB 260 [HB 260]

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.

Repeals and re-enacts provisions regarding the Uniform Interstate Family Support Act to be consistent with the changes adopted by the National Conference of Commissioners on Uniform State Laws

AN ACT to repeal sections 210.844, 454.850, 454.853, 454.855, 454.857, 454.860, 454.862, 454.865, 454.867, 454.869, 454.871, 454.874, 454.877, 454.880, 454.882, 454.885, 454.887, 454.890, 454.892, 454.895, 454.897, 454.900, 454.902, 454.905, 454.907, 454.910, 454.912, 454.915, 454.917, 454.920, 454.922, 454.927, 454.930, 454.932, 454.934, 454.936, 454.938, 454.941, 454.943, 454.946, 454.948, 454.951, 454.953, 454.956, 454.958, 454.961, 454.963, 454.966, 454.968, 454.971, 454.973, 454.976, 454.978, 454.981, 454.983, 454.986, 454.989, 454.991, 454.993, 454.995, and 454.999, RSMo, and to enact in lieu thereof eighty new sections relating to the uniform interstate family support act.

SECTION

A. Enacting clause.
210.844. Applicability of certain statutes.
454.1500. Short title.
454.1503. Definitions.
454.1506. State tribunal and support enforcement agency.
454.1509. Remedies cumulative.
454.1512. Application of act to resident of foreign county and foreign support proceeding.
454.1515. Basis for jurisdiction over nonresident.
454.1518. Duration of personal jurisdiction.
454.1521. Initiating and responding tribunal of state.
454.1524. Simultaneous proceedings.
454.1527. Continuing, exclusive jurisdiction to modify child support orders.
454.1530. Continuing jurisdiction to enforce child support order.
454.1533. Determination of controlling child support order.
454.1536. Child support orders for two or more obligees.
454.1539. Credit for payments.
454.1542. Application of act to nonresident subject to personal jurisdiction.
454.1545. Continuing, exclusive jurisdiction to modify spousal support order.
454.1548. Proceedings under act.
454.1551. Proceeding by minor parent.
454.1554. Application of law of state.
454.1557. Duties of initiating tribunal.
454.1560. Duties and powers of responding tribunal.
454.1563. Inappropriate tribunal.
454.1566. Duties of support enforcement agency.
454.1569. Duty of state official or agency.
454.1572. Private counsel.
454.1575. Duties of state information agency.
454.1578. Pleadings and accompanying documents.
454.1581. Nondisclosure of information in exceptional circumstances.
454.1584. Cost and fees.
454.1587. Limited immunity of petitioner.
454.1590. Nonparentage as defense.
454.1593. Special rules of evidence and procedure.
454.1596. Communications between tribunals.
454.1599. Assistance with discovery.
454.1602. Receipt and disbursement of payments.
454.1605. Establishment of support order.
454.1608. Proceeding to determine parentage.
454.1611. Employer's receipt of income withholding order of another state.
454.1614. Employer's compliance with income withholding order of another state.

454.1617. Employer's compliance with two or more income withholding orders.
454.1620. Immunity from civil liability.
454.1623. Penalties for noncompliance.
454.1626. Contest by obligor.
454.1629. Administrative enforcement of orders.
454.1632. Registration of order for enforcement.
454.1635. Procedure to register order for enforcement.
454.1638. Effect of registration for enforcement.
454.1641. Choice of law.
454.1644. Notice of registration of order.
454.1647. Procedure to contest validity or enforcement of registered support order.
454.1650. Contest of registration or enforcement.
454.1653. Confirmed order.
454.1656. Procedure to register child support order of another state for modification.
454.1659. Effect of registration for modification.
454.1662. Modification of child support order of another state.
454.1665. Recognition of order modified in another state.
454.1668. Jurisdiction to modify child support order of another state when individual parties reside in this state.
454.1671. Notice to issuing tribunal of modification.
454.1674. Jurisdiction to modify child support of foreign country.
454.1677. Procedure to register child support order of foreign country for modification.
454.1680. Definitions.
454.1683. Applicability.
454.1686. Relationship of governmental entity to United States authority.
454.1689. Initiation by governmental entity of support proceeding under convention.
454.1692. Direct request.
454.1695. Registration of convention support order.
454.1698. Contest of registered convention support order.
454.1701. Recognition and enforcement of registered convention support order.
454.1704. Partial enforcement
454.1707. Foreign support agreement.
454.1710. Modification of convention child support order.
454.1713. Personal information — limit on use.
454.1716. Record in original language — English translation.
454.1719. Grounds for rendition.
454.1722. Conditions of rendition.
454.1725. Uniformity of application and construction.
454.1727. Severability.
454.1728. Effective date.
454.1730. Applicability of certain state laws.
454.850. Definitions.
454.853. Tribunals in Missouri.
454.855. Remedies, cumulative.
454.857. Jurisdiction, extended personal jurisdiction.
454.860. Jurisdiction, evidence and discovery from a foreign state--conflict of laws
454.862. Tribunal of this state may be initiating or responding tribunal.
454.865. Jurisdiction may be exercised, when--jurisdiction not proper, when.
454.867. Jurisdiction, proceedings involving a foreign tribunal, exclusive jurisdiction, modifications of orders, loss of exclusive jurisdiction, recognition of foreign jurisdiction, effect of temporary support order on jurisdiction, spousal support order.
454.869. Jurisdiction, proceedings involving a foreign tribunal, tribunal requests to enforce or modify support orders.
454.871. Jurisdiction, multiple support orders--which order recognized, procedure.
454.874. Jurisdiction, multiple registrations or petitions for support orders, manner of treatment.
454.877. Collections pursuant to order of foreign tribunal, credited, how.
454.880. Proceedings authorized, commencement of proceedings.
454.882. Minor, proceeding on behalf of.
454.885. Applicable law, choice of law.
454.887. Copies of petition and documents forwarded.
454.890. Receipt of petition by state tribunal, notification of petitioner, powers of court.
454.892. Receipt by inappropriate tribunal, petition and documents, forwarded, notification.
454.895. Proceeding, services provided by support enforcement agency.
454.897. Attorney general's order on neglect by support enforcement agency's duties.
454.900. Representation by counsel.
454.902. Division of child support enforcement is state information agency, duties.
454.905. Petitions, verification requirements.

454.907. Pleadings, nondisclosure of information.
454.910. Payment of fees and costs, attorney's fees.
454.912. Jurisdiction, personal, not obtained for another proceeding, immunity from service of process, when.
454.915. Parentage, previous determination, effect on defense of nonparentage.
454.917. Presence of petitioner for jurisdiction of tribunal, evidence admissible.
454.920. Inquiries between tribunals, communication means permitted.
454.922. Discovery, request of assistance between tribunals.
454.927. Disbursements, statement furnished.
454.930. Support orders issued, when, temporary child support order issued, when.
454.932. Income withholding order, issued in another state.
454.934. Income withholding orders, employer's duties.
454.936. Multiple orders to withhold support, compliance of employer, when.
454.938. Immunity from civil liability of employer for compliance.
454.941. Penalties for noncompliance of employer.
454.943. Validity of income withholding contested, procedure.
454.946. Foreign tribunal's order enforced, when, procedure.
454.948. Registration of a foreign tribunal's order required.
454.951. Procedure for registering a foreign tribunal's order.
454.953. Registration is complete and enforceable when.
454.956. Issuing state law governs--statute of limitations.
454.958. Notification of nonregistering party, procedure.
454.961. Nonregistering party's contest of a support order, procedure, effect.
454.963. Burden of proof, contest by nonregistering party.
454.966. Confirmation of registration.
454.968. Modifications of foreign tribunal's orders registered how, when.
454.971. Modifications of foreign tribunal's orders enforced, when.
454.973. Modification of an order issued in a foreign tribunal permitted, when.
454.976. Recognition of a foreign tribunal's modification of this state's order, when.
454.978. Jurisdiction for a child support proceeding.
454.981. Certified copy of a modification filed with issuing tribunal.
454.983. Determination of parentage--which tribunal.
454.986. Governor, defined, duties.
454.989. Surrender of a parent charged with failure to provide support, procedure.
454.991. Construction and application of sections 454.850 to 454.997.
454.993. Citation of the uniform interstate family support act.
454.995. Severability.
454.999. Applicability of certain statutes.
B. Effective date of repeal of act.

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

SECTION A. ENACTING CLAUSE. — Sections 210.844, 454.850, 454.853, 454.855, 454.857, 454.860, 454.862, 454.865, 454.867, 454.869, 454.871, 454.874, 454.877, 454.880, 454.882, 454.885, 454.887, 454.890, 454.892, 454.895, 454.897, 454.900, 454.902, 454.905, 454.907, 454.910, 454.912, 454.915, 454.917, 454.920, 454.922, 454.927, 454.930, 454.932, 454.934, 454.936, 454.938, 454.941, 454.943, 454.946, 454.948, 454.951, 454.953, 454.956, 454.958, 454.961, 454.963, 454.966, 454.968, 454.971, 454.973, 454.976, 454.978, 454.981, 454.983, 454.986, 454.989, 454.991, 454.993, 454.995, and 454.999, RSMo, are repealed and eighty new sections enacted in lieu thereof, to be known as sections 210.844, 454.1500, 454.1503, 454.1506, 454.1509, 454.1512, 454.1515, 454.1518, 454.1521, 454.1524, 454.1527, 454.1530, 454.1533, 454.1536, 454.1539, 454.1542, 454.1545, 454.1548, 454.1551, 454.1554, 454.1557, 454.1560, 454.1563, 454.1566, 454.1569, 454.1572, 454.1575, 454.1578, 454.1581, 454.1584, 454.1587, 454.1590, 454.1593, 454.1596, 454.1599, 454.1602, 454.1605, 454.1608, 454.1611, 454.1614, 454.1617, 454.1620, 454.1623, 454.1626, 454.1629, 454.1632, 454.1635, 454.1638, 454.1641, 454.1644, 454.1647, 454.1650, 454.1653, 454.1656, 454.1659, 454.1662, 454.1665, 454.1668, 454.1671, 454.1674, 454.1677, 454.1680, 454.1683, 454.1686, 454.1689, 454.1692, 454.1695, 454.1698, 454.1701, 454.1704, 454.1707, 454.1710, 454.1713, 454.1716, 454.1719, 454.1722, 454.1725, 454.1727, 454.1728, and 454.1730, to read as follows:

210.844. APPLICABILITY OF CERTAIN STATUTES. — In a proceeding to determine the existence of the parent and child relationship brought **[**pursuant to the provisions of sections 454.010 to 454.360, RSMo, or pursuant to the provisions of sections 454.850 to 454.997, RSMo, the provisions of sections 210.817, 210.822 and 210.834**] under sections 454.850 to 454.997 or under sections 454.1500 to 454.1728, the provisions of sections 210.817, 210.822, 210.823, 210.834, and 210.836** shall apply, but no other provisions of sections 210.818 through 210.852 shall apply.

ARTICLE 1
GENERAL PROVISIONS

454.1500. SHORT TITLE. — This act, sections 454.1500 to 454.1728, may be cited as the Uniform Interstate Family Support Act.

454.1503. DEFINITIONS. — In this act, sections 454.1500 to 454.1728:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

(3) "Convention" means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

(4) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(5) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

(A) which has been declared under the law of the United States to be a foreign reciprocating country;

(B) which has established a reciprocal arrangement for child support with this state as provided in section 454.1569;

(C) which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under sections 454.1500 to 454.1728; or

(D) in which the Convention is in force with respect to the United States.

(6) "Foreign support order" means a support order of a foreign tribunal.

(7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the Convention.

(8) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(9) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(10) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by section 452.350 or 454.505, to withhold support from the income of the obligor.

(11) "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

(12) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

(13) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

(14) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.

(15) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(16) "Obligee" means:

(A) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;

(B) a foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;

(C) an individual seeking a judgment determining parentage of the individual's child; or

(D) a person that is a creditor in a proceeding under Article 7, sections 454.1680 to 454.1716.

(17) "Obligor" means an individual, or the estate of a decedent that:

(A) owes or is alleged to owe a duty of support;

(B) is alleged but has not been adjudicated to be a parent of a child;

(C) is liable under a support order; or

(D) is a debtor in a proceeding under Article 7, sections 454.1680 to 454.1716.

(18) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(21) "Register" means to record or file in a tribunal of this state a support order or judgment determining parentage of a child issued in another state or a foreign country.

(22) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered.

(23) "Responding state" means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country.

(24) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

(25) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

(26) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe.

(27) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to:

(A) seek enforcement of support orders or laws relating to the duty of support;

(B) seek establishment or modification of child support;

(C) request determination of parentage of a child;

(D) attempt to locate obligors or their assets; or

(E) request determination of the controlling child support order.

(28) "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney's fees, and other relief.

(29) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

454.1506. STATE TRIBUNAL AND SUPPORT ENFORCEMENT AGENCY. — (a) The courts and the family support division are the tribunals of this state.

(b) The family support division is the support enforcement agency of this state.

454.1509. REMEDIES CUMULATIVE. — (a) Remedies provided by sections 454.1500 to 454.1728 are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity.

(b) Sections 454.1500 to 454.1728 do not:

(1) provide the exclusive method of establishing or enforcing a support order under the law of this state; or

(2) grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under sections 454.1500 to 454.1728.

454.1512. APPLICATION OF ACT TO RESIDENT OF FOREIGN COUNTY AND FOREIGN SUPPORT PROCEEDING. — (a) A tribunal of this state shall apply Articles 1 through 6, sections 454.1500 to 454.1677, and, as applicable, Article 7, sections 454.1680 to 454.1716, to a support proceeding involving:

(1) a foreign support order;

(2) a foreign tribunal; or

(3) an obligee, obligor, or child residing in a foreign country.

(b) A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of Articles 1 through 6, sections 454.1500 to 454.1677.

(c) Article 7, sections 454.1680 to 454.1716, apply only to a support proceeding under the Convention. In such a proceeding, if a provision of Article 7, sections 454.1680 to 454.1716, is inconsistent with Articles 1 through 6, sections 454.1500 to 454.1677, Article 7, sections 454.1680 to 454.1716, controls.

ARTICLE 2
JURISDICTION

454.1515. BASIS FOR JURISDICTION OVER NONRESIDENT. — (a) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) the individual is personally served with notice within this state;

(2) the individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) the individual resided with the child in this state;

(4) the individual resided in this state and provided prenatal expenses or support for the child;

(5) the child resides in this state as a result of the acts or directives of the individual;

(6) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

(7) the individual asserted parentage of a child in the putative father registry maintained in this state by the department of health and senior services; or

(8) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

(b) The bases of personal jurisdiction set forth in subsection (a) or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of section 454.1662 are met, or, in the case of a foreign support order, unless the requirements of section 454.1674 are met.

454.1518. DURATION OF PERSONAL JURISDICTION. — Personal jurisdiction acquired by a tribunal of this state in a proceeding under sections 454.1500 to 454.1728 or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by sections 454.1527, 454.1530, and 454.1545.

454.1521. INITIATING AND RESPONDING TRIBUNAL OF STATE. — Under sections 454.1500 to 454.1728, a tribunal of this state may serve as an initiating tribunal to forward proceedings to a tribunal of another state and as a responding tribunal for proceedings initiated in another state or a foreign country.

454.1524. SIMULTANEOUS PROCEEDINGS. — (a) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state or a foreign country only if:

(1) the petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state or the foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or the foreign country;

(2) the contesting party timely challenges the exercise of jurisdiction in the other state or the foreign country; and

(3) if relevant, this state is the home state of the child.

(b) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or a foreign country if:

(1) the petition or comparable pleading in the other state or foreign country is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(2) the contesting party timely challenges the exercise of jurisdiction in this state; and

(3) if relevant, the other state or foreign country is the home state of the child.

454.1527. CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY CHILD SUPPORT ORDERS. — (a) A tribunal of this state that has issued a child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order and:

(1) at the time of the filing of a request for modification this state is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order.

(b) A tribunal of this state that has issued a child support order consistent with the law of this state may not exercise continuing, exclusive jurisdiction to modify the order if:

(1) all of the parties who are individuals file consent in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or

(2) its order is not the controlling order.

(c) If a tribunal of another state has issued a child support order pursuant to the Uniform Interstate Family Support Act or a law substantially similar to that Act which modifies a child support order of a tribunal of this state, tribunals of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

(d) A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

454.1530. CONTINUING JURISDICTION TO ENFORCE CHILD SUPPORT ORDER. — (a) A tribunal of this state that has issued a child support order consistent with the law of this state may serve as an initiating tribunal to request a tribunal of another state to enforce:

(1) the order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act; or

(2) a money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.

(b) A tribunal of this state having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

454.1533. DETERMINATION OF CONTROLLING CHILD SUPPORT ORDER. — (a) If a proceeding is brought under sections 454.1500 to 454.1728 and only one tribunal has issued a child support order, the order of that tribunal controls and must be recognized.

(b) If a proceeding is brought under sections 454.1500 to 454.1728, and two or more child support orders have been issued by tribunals of this state, another state, or a foreign country with regard to the same obligor and same child, a tribunal of this state having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls and must be recognized:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction under sections 454.1500 to 454.1728, the order of that tribunal controls.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under sections 454.1500 to 454.1728:

(A) an order issued by a tribunal in the current home state of the child controls; or

(B) if an order has not been issued in the current home state of the child, the order most recently issued controls.

(3) If none of the tribunals would have continuing, exclusive jurisdiction under sections 454.1500 to 454.1728, the tribunal of this state shall issue a child support order, which controls.

(c) If two or more child support orders have been issued for the same obligor and same child, upon request of a party who is an individual or that is a support enforcement agency, a tribunal of this state having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection (b). The request may be filed with a registration for enforcement or registration for modification pursuant to Article 6, sections 454.1632 to 454.1677, or may be filed as a separate proceeding.

(d) A request to determine which is the controlling order must be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(e) The tribunal that issued the controlling order under subsections (a), (b), or (c) has continuing jurisdiction to the extent provided in section 454.1527 or 454.1530.

(f) A tribunal of this state that determines by order which is the controlling order under subsection (b)(1) or (2) or (c), or that issues a new controlling order under subsection (b)(3), shall state in that order:

(1) the basis upon which the tribunal made its determination;

(2) the amount of prospective support, if any; and

(3) the total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by section 454.1539.

(g) Within thirty days after issuance of an order determining which is the controlling order, the party obtaining the order shall file a certified copy of it in each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency obtaining the order that fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

(h) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under sections 454.1500 to 454.1728.

454.1536. CHILD SUPPORT ORDERS FOR TWO OR MORE OBLIGEES. — In responding to registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state or a foreign country, a tribunal of this state shall enforce those orders in the same manner as if the orders had been issued by a tribunal of this state.

454.1539. CREDIT FOR PAYMENTS. — A tribunal of this state shall credit amounts collected for a particular period pursuant to any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this state, another state, or a foreign country.

454.1542. APPLICATION OF ACT TO NONRESIDENT SUBJECT TO PERSONAL JURISDICTION. — A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under sections 454.1500 to 454.1728, under other law of this state relating to a support order, or recognizing a foreign support order may receive evidence from outside this state pursuant to section 454.1593, communicate with a tribunal outside this state pursuant to section 454.1596, and obtain discovery through a tribunal outside this state pursuant to section 454.1599. In all other respects, Article 3

through 6, sections 454.1548 to 454.1677, do not apply, and the tribunal shall apply the procedural and substantive law of this state.

454.1545. CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY SPOUSAL SUPPORT ORDER. — (a) A tribunal of this state issuing a spousal support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

(b) A tribunal of this state may not modify a spousal support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

(c) A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support order may serve as:

(1) an initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this state; or

(2) a responding tribunal to enforce or modify its own spousal support order.

ARTICLE 3
CIVIL PROVISIONS OF GENERAL APPLICATION

454.1548. PROCEEDINGS UNDER ACT. — (a) Except as otherwise provided in sections 454.1500 to 454.1728, this article, sections 454.1548 to 454.1602, applies to all proceedings under sections 454.1500 to 454.1728.

(b) An individual petitioner or a support enforcement agency may initiate a proceeding authorized under sections 454.1500 to 454.1728 by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or foreign country which has or can obtain personal jurisdiction over the respondent.

454.1551. PROCEEDING BY MINOR PARENT. — A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

454.1554. APPLICATION OF LAW OF STATE. — Except as otherwise provided by sections 454.1500 to 454.1728, a responding tribunal of this state shall:

(1) apply the procedural and substantive law generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

454.1557. DUTIES OF INITIATING TRIBUNAL. — (a) Upon the filing of a petition authorized by sections 454.1500 to 454.1728, an initiating tribunal of this state shall forward the petition and its accompanying documents:

(1) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) If requested by the responding tribunal, a tribunal of this state shall issue a certificate or other document and make findings required by the law of the responding state. If the responding tribunal is in a foreign country, upon request the tribunal of this state shall specify the amount of support sought, convert that amount into the equivalent

amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding foreign tribunal.

454.1560. DUTIES AND POWERS OF RESPONDING TRIBUNAL. — (a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to subsection (b) of section 454.1548, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(b) A responding tribunal of this state, to the extent not prohibited by other law, may do one or more of the following:

(1) establish or enforce a support order, modify a child support order, determine the controlling child support order, or determine parentage of the child;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, electronic mail address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by specified methods;

(11) award reasonable attorney's fees and other fees and costs; and

(12) grant any other available remedy.

(c) A responding tribunal of this state shall include in a support order issued under sections 454.1500 to 454.1728, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under sections 454.1500 to 454.1728 upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under sections 454.1500 to 454.1728, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

(f) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

454.1563. INAPPROPRIATE TRIBUNAL. — If a petition or comparable pleading is received by an inappropriate tribunal of this state, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal of this state or another state and notify the petitioner where and when the pleading was sent.

454.1566. DUTIES OF SUPPORT ENFORCEMENT AGENCY. — (a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under sections 454.1500 to 454.1728.

(b) A support enforcement agency of this state that is providing services to the petitioner as appropriate shall:

(1) take all steps necessary to enable an appropriate tribunal of this state, another state, or a foreign country to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(5) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts:

(1) to ensure that the order to be registered is the controlling order; or

(2) if two or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

(d) A support enforcement agency of this state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

(e) A support enforcement agency of this state shall issue or request a tribunal of this state to issue a child support order and an income withholding order that redirect payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to section 454.1602.

(f) Sections 454.1500 to 454.1728 do not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

454.1569. DUTY OF STATE OFFICIAL OR AGENCY. — (a) If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under sections 454.1500 to 454.1728 or may provide those services directly to the individual.

(b) The attorney general may determine that a foreign country has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.

454.1572. PRIVATE COUNSEL. — An individual may employ private counsel to represent the individual in proceedings authorized by sections 454.1500 to 454.1728.

454.1575. DUTIES OF STATE INFORMATION AGENCY. — (a) The family support division within the department of social services is the state information agency under sections 454.1500 to 454.1728.

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under sections 454.1500 to 454.1728 and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the county in this state in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under sections 454.1500 to 454.1728 received from another state or a foreign country; and

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and Social Security.

454.1578. PLEADINGS AND ACCOMPANYING DOCUMENTS. — (a) In a proceeding under sections 454.1500 to 454.1728, a petitioner seeking to establish a support order, to determine parentage of a child, or to register and modify a support order of a tribunal of another state or a foreign country must file a petition. Unless otherwise ordered under section 454.1581, the petition or accompanying documents must provide, so far as known, the name, residential address, and Social Security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, Social Security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

454.1581. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES. — If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

454.1584. COST AND FEES. — (a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal of this state may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or responding state or foreign country, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under Article 6, sections 454.1632 to 454.1677, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

454.1587. LIMITED IMMUNITY OF PETITIONER. — (a) Participation by a petitioner in a proceeding under sections 454.1500 to 454.1728 before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under sections 454.1500 to 454.1728.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under sections 454.1500 to 454.1728 committed by a party while physically present in this state to participate in the proceeding.

454.1590. NONPARENTAGE AS DEFENSE. — A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under sections 454.1500 to 454.1728.

454.1593. SPECIAL RULES OF EVIDENCE AND PROCEDURE. — (a) The physical presence of a nonresident party who is an individual in a tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

(b) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from outside this state to a tribunal of this state by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under sections 454.1500 to 454.1728, a tribunal of this state shall permit a party or witness residing outside this state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A tribunal of this state shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under sections 454.1500 to 454.1728.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under sections 454.1500 to 454.1728.

(j) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

454.1596. COMMUNICATIONS BETWEEN TRIBUNALS. — A tribunal of this state may communicate with a tribunal outside this state in a record or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment,

decree, or order of that tribunal, and the status of a proceeding. A tribunal of this state may furnish similar information by similar means to a tribunal outside this state.

454.1599. ASSISTANCE WITH DISCOVERY. — A tribunal of this state may:

(1) request a tribunal outside this state to assist in obtaining discovery; and

(2) upon request, compel a person over which it has jurisdiction to respond to a discovery order issued by a tribunal outside this state.

454.1602. RECEIPT AND DISBURSEMENT OF PAYMENTS. — (a) A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state or a foreign country a certified statement by the custodian of the record of the amounts and dates of all payments received.

(b) If neither the obligor, nor the obligee who is an individual, nor the child resides in this state, upon request from the support enforcement agency of this state or another state, a tribunal of this state shall:

(1) direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and

(2) issue and send to the obligor's employer a conforming income withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(c) The support enforcement agency of this state receiving redirected payments from another state pursuant to a law similar to subsection (b) shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

ARTICLE 4
ESTABLISHMENT OF SUPPORT ORDER OR DETERMINATION OF PARENTAGE

454.1605. ESTABLISHMENT OF SUPPORT ORDER. — (a) If a support order entitled to recognition under sections 454.1500 to 454.1728 has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if:

(1) the individual seeking the order resides outside this state; or

(2) the support enforcement agency seeking the order is located outside this state.

(b) The tribunal may issue a temporary child support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

(1) a presumed father of the child;

(2) petitioning to have his paternity adjudicated;

(3) identified as the father of the child through genetic testing;

(4) an alleged father who has declined to submit to genetic testing;

(5) shown by clear and convincing evidence to be the father of the child;

(6) an acknowledged father as provided under section 210.823;

(7) the mother of the child; or

(8) an individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 454.1560.

454.1608. PROCEEDING TO DETERMINE PARENTAGE. — A tribunal of this state authorized to determine parentage of a child may serve as a responding tribunal in a

proceeding to determine parentage of a child brought under sections 454.1500 to 454.1728 or a law or procedure substantially similar to sections 454.1500 to 454.1728.

ARTICLE 5
ENFORCEMENT OF SUPPORT ORDER WITHOUT REGISTRATION

454.1611. EMPLOYER'S RECEIPT OF INCOME WITHHOLDING ORDER OF ANOTHER STATE. — An income withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person defined as the obligor's employer under section 452.350 or 454.505 without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

454.1614. EMPLOYER'S COMPLIANCE WITH INCOME WITHHOLDING ORDER OF ANOTHER STATE. — (a) Upon receipt of an income withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.

(c) Except as otherwise provided in subsection (d) of this section and section 454.1617, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

(1) the duration and amount of periodic payments of current child support, stated as a sum certain;

(2) the person designated to receive payments and the address to which the payments are to be forwarded;

(3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(4) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(5) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(1) the employer's fee for processing an income withholding order;

(2) the maximum amount permitted to be withheld from the obligor's income; and

(3) the times within which the employer must implement the withholding order and forward the child support payment.

454.1617. EMPLOYER'S COMPLIANCE WITH TWO OR MORE INCOME WITHHOLDING ORDERS. — If an obligor's employer receives two or more income withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for two or more child support obligees.

454.1620. IMMUNITY FROM CIVIL LIABILITY. — An employer that complies with an income withholding order issued in another state in accordance with sections 454.1611 to 454.1629 is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

454.1623. PENALTIES FOR NONCOMPLIANCE. — An employer that willfully fails to comply with an income withholding order issued in another state and received for

enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

454.1626. CONTEST BY OBLIGOR. — (a) An obligor may contest the validity or enforcement of an income withholding order issued in another state and received directly by an employer in this state by registering the order in a tribunal of this state and filing a contest to that order as provided in Article 6, sections 454.1632 to 454.1677, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this state.

(b) The obligor shall give notice of the contest to:

(1) a support enforcement agency providing services to the obligee;

(2) each employer that has directly received an income withholding order relating to the obligor; and

(3) the person designated to receive payments in the income withholding order or, if no person is designated, to the obligee.

454.1629. ADMINISTRATIVE ENFORCEMENT OF ORDERS. — (a) A party or support enforcement agency seeking to enforce a support order or an income withholding order, or both, issued in another state or a foreign support order may send the documents required for registering the order to a support enforcement agency of this state.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to sections 454.1500 to 454.1728.

ARTICLE 6
REGISTRATION, ENFORCEMENT, AND MODIFICATION OF SUPPORT ORDER

Part 1
REGISTRATION FOR ENFORCEMENT OF SUPPORT ORDER

454.1632. REGISTRATION OF ORDER FOR ENFORCEMENT. — A support order or income withholding order issued in another state or a foreign support order may be registered in this state for enforcement.

454.1635. PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT. — (a) Except as otherwise provided in section 454.1695, a support order or income withholding order of another state or a foreign support order may be registered in this state by sending the following records to the appropriate tribunal in this state:

(1) a letter of transmittal to the tribunal requesting registration and enforcement;

(2) two copies, including one certified copy, of the order to be registered, including any modification of the order;

(3) a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) the name of the obligor and, if known:

(A) the obligor's address and Social Security number;

(B) the name and address of the obligor's employer and any other source of income of the obligor; and

(C) a description and the location of property of the obligor in this state not exempt from execution; and

(5) except as otherwise provided in section 454.1581, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as an order of a tribunal of another state or a foreign support order, together with one copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

(d) If two or more orders are in effect, the person requesting registration shall:

(1) furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

(2) specify the order alleged to be the controlling order, if any; and

(3) specify the amount of consolidated arrears, if any.

(e) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

454.1638. EFFECT OF REGISTRATION FOR ENFORCEMENT. — (a) A support order or income withholding order issued in another state or a foreign support order is registered when the order is filed in the registering tribunal of this state.

(b) A registered support order issued in another state or a foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(c) Except as otherwise provided in sections 454.1500 to 454.1728, a tribunal of this state shall recognize and enforce, but may not modify, a registered support order if the issuing tribunal had jurisdiction.

454.1641. CHOICE OF LAW. — (a) Except as otherwise provided in subsection (d), the law of the issuing state or foreign country governs:

(1) the nature, extent, amount, and duration of current payments under a registered support order;

(2) the computation and payment of arrearages and accrual of interest on the arrearages under the support order; and

(3) the existence and satisfaction of other obligations under the support order.

(b) In a proceeding for arrears under a registered support order, the statute of limitation of this state or of the issuing state or foreign country, whichever is longer, applies.

(c) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state or a foreign country registered in this state.

(d) After a tribunal of this state or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

Part 2
CONTEST OF VALIDITY OF ENFORCEMENT

454.1644. NOTICE OF REGISTRATION OF ORDER. — (a) When a support order or income withholding order issued in another state or a foreign support order is registered,

the registering tribunal of this state shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) A notice must inform the nonregistering party:

(1) that a registered support order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after notice unless the registered order is under section 454.1698;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

(4) of the amount of any alleged arrearages.

(c) If the registering party asserts that two or more orders are in effect, a notice must also:

(1) identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;

(2) notify the nonregistering party of the right to a determination of which is the controlling order;

(3) state that the procedures provided in subsection (b) apply to the determination of which is the controlling order; and

(4) state that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(d) Upon registration of an income withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to section 452.350 or 454.505.

454.1647. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED SUPPORT ORDER. — (a) A nonregistering party seeking to contest the validity or enforcement of a registered support order in this state shall request a hearing within the time required by section 454.1644. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 454.1650.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered support order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered support order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

454.1650. CONTEST OF REGISTRATION OR ENFORCEMENT. — (a) A party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) the issuing tribunal lacked personal jurisdiction over the contesting party;

(2) the order was obtained by fraud;

(3) the order has been vacated, suspended, or modified by a later order;

(4) the issuing tribunal has stayed the order pending appeal;

(5) there is a defense under the law of this state to the remedy sought;

(6) full or partial payment has been made;

(7) the statute of limitation under section 454.1641 precludes enforcement of some or all of the alleged arrearages; or

(8) the alleged controlling order is not the controlling order.

(b) If a party presents evidence establishing a full or partial defense under subsection (a), a tribunal may stay enforcement of a registered support order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered support order may be enforced by all remedies available under the law of this state.

(c) If the contesting party does not establish a defense under subsection (a) to the validity or enforcement of a registered support order, the registering tribunal shall issue an order confirming the order.

454.1653. CONFIRMED ORDER. — Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

Part 3
REGISTRATION AND MODIFICATION OF
CHILD SUPPORT ORDER OF ANOTHER STATE

454.1656. PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF ANOTHER STATE FOR MODIFICATION. — A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in sections 454.1632 through 454.1653 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

454.1659. EFFECT OF REGISTRATION FOR MODIFICATION. — A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered support order may be modified only if the requirements of section 454.1662 or 454.1668 have been met.

454.1662. MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE. — (a) If section 454.1668 does not apply, upon petition a tribunal of this state may modify a child support order issued in another state which is registered in this state if, after notice and hearing, the tribunal finds that:

(1) the following requirements are met:

(A) neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;

(B) a petitioner who is a nonresident of this state seeks modification; and

(C) the respondent is subject to the personal jurisdiction of the tribunal of this state; or

(2) this state is the residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the

same obligor and same child, the order that controls and must be so recognized under section 454.1533 establishes the aspects of the support order which are nonmodifiable.

(d) In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.

(e) On the issuance of an order by a tribunal of this state modifying a child support order issued in another state, the tribunal of this state becomes the tribunal having continuing, exclusive jurisdiction.

(f) Notwithstanding subsections (a) through (e) and subsection (b) of section 454.1515, a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:

(1) one party resides in another state; and

(2) the other party resides outside the United States.

454.1665. RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE. — If a child support order issued by a tribunal of this state is modified by a tribunal of another state which assumed jurisdiction pursuant to the Uniform Interstate Family Support Act, a tribunal of this state:

(1) may enforce its order that was modified only as to arrears and interest accruing before the modification;

(2) may provide appropriate relief for violations of its order which occurred before the effective date of the modification; and

(3) shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

454.1668. JURISDICTION TO MODIFY CHILD SUPPORT ORDER OF ANOTHER STATE WHEN INDIVIDUAL PARTIES RESIDE IN THIS STATE. — (a) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(b) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of Articles 1 and 2, sections 454.1500 to 454.1545; this article, sections 454.1632 to 454.1677, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Article 3, sections 454.1548 to 454.1602; Article 4, sections 454.1605 to 454.1608; Article 5, sections 454.1611 to 454.1629, Article 7, sections 454.1680 to 454.1716; and Article 8, sections 454.1719 to 454.1722, do not apply.

454.1671. NOTICE TO ISSUING TRIBUNAL OF MODIFICATION. — Within thirty days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

Part 4

REGISTRATION AND MODIFICATION OF FOREIGN CHILD SUPPORT ORDER

454.1674. JURISDICTION TO MODIFY CHILD SUPPORT OF FOREIGN COUNTRY. — (a) Except as otherwise provided in section 454.1710, if a foreign country lacks or refuses to

exercise jurisdiction to modify its child support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether the consent to modification of a child support order otherwise required of the individual pursuant to section 454.1662 has been given or whether the individual seeking modification is a resident of this state or of the foreign country.

(b) An order issued by a tribunal of this state modifying a foreign child support order pursuant to this section is the controlling order.

454.1677. PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF FOREIGN COUNTRY FOR MODIFICATION. — A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child support order not under the Convention may register that order in this state under sections 454.1632 to 454.1653 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition must specify the grounds for modification.

ARTICLE 7
SUPPORT PROCEEDING UNDER CONVENTION

454.1680. DEFINITIONS. — In this Article, sections 454.1680 to 454.1716:

(1) "Application" means a request under the Convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(2) "Central authority" means the entity designated by the United States or a foreign country described in section 454.1503(5)(D) to perform the functions specified in the Convention.

(3) "Convention support order" means a support order of a tribunal of a foreign country described in section 454.1503(5)(D).

(4) "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or child residing outside the United States.

(5) "Foreign central authority" means the entity designated by a foreign country described in section 454.1503(5)(D) to perform the functions specified in the Convention.

(6) "Foreign support agreement":

(A) means an agreement for support in a record that:

(i) is enforceable as a support order in the country of origin;

(ii) has been:

(I) formally drawn up or registered as an authentic instrument by a foreign tribunal; or

(II) authenticated by, or concluded, registered, or filed with a foreign tribunal; and

(iii) may be reviewed and modified by a foreign tribunal; and

(B) includes a maintenance arrangement or authentic instrument under the Convention.

(7) "United States central authority" means the Secretary of the United States Department of Health and Human Services.

454.1683. APPLICABILITY. — This Article, sections 454.1680 to 454.1716, applies only to a support proceeding under the Convention. In such a proceeding, if a provision of this Article, sections 454.1680 to 454.1716, is inconsistent with Articles 1 through 6, sections 454.1500 to 454.1677, this article, sections 454.1680 to 454.1716, controls.

454.1686. RELATIONSHIP OF GOVERNMENTAL ENTITY TO UNITED STATES AUTHORITY. — The family support division of this state is recognized as the agency designated by the United States central authority to perform specific functions under the Convention.

454.1689. INITIATION BY GOVERNMENTAL ENTITY OF SUPPORT PROCEEDING UNDER CONVENTION. — (a) In a support proceeding under this Article, sections 454.1680 to 454.1716, the family support division of this state shall:

(1) transmit and receive applications; and

(2) initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.

(b) The following support proceedings are available to an obligee under the Convention:

(1) recognition or recognition and enforcement of a foreign support order;

(2) enforcement of a support order issued or recognized in this state;

(3) establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;

(4) establishment of a support order if recognition of a foreign support order is refused under section 454.1701(b)(2), (4), or (9);

(5) modification of a support order of a tribunal of this state; and

(6) modification of a support order of a tribunal of another state or a foreign country.

(c) The following support proceedings are available under the Convention to an obligor against which there is an existing support order:

(1) recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;

(2) modification of a support order of a tribunal of this state; and

(3) modification of a support order of a tribunal of another state or a foreign country.

(d) A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the Convention.

454.1692. DIRECT REQUEST. — (a) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of this state applies.

(b) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, sections 454.1695 through 454.1716 apply.

(c) In a direct request for recognition and enforcement of a Convention support order or foreign support agreement:

(1) a security, bond, or deposit is not required to guarantee the payment of costs and expenses; and

(2) an obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.

(d) A petitioner filing a direct request is not entitled to assistance from the family support division.

(e) This Article, sections 454.1680 to 454.1716, does not prevent the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

454.1695. REGISTRATION OF CONVENTION SUPPORT ORDER. — (a) Except as otherwise provided in this Article, sections 454.1680 to 454.1716, a party who is an individual or a support enforcement agency seeking recognition of a Convention support order shall register the order in this state as provided in Article 6, sections 454.1632 to 454.1677.

(b) Notwithstanding sections 454.1578 and 454.1635(a), a request for registration of a Convention support order must be accompanied by:

(1) a complete text of the support order;

(2) a record stating that the support order is enforceable in the issuing country;

(3) if the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;

(4) a record showing the amount of arrears, if any, and the date the amount was calculated;

(5) a record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and

(6) if necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

(c) A request for registration of a Convention support order may seek recognition and partial enforcement of the order.

(d) A tribunal of this state may vacate the registration of a Convention support order without the filing of a contest under section 454.1698 only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

(e) The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a Convention support order.

454.1698. CONTEST OF REGISTERED CONVENTION SUPPORT ORDER. — (a) Except as otherwise provided in this Article, sections 454.1680 to 454.1716, sections 454.1644 to 454.1653 apply to a contest of a registered Convention support order.

(b) A party contesting a registered Convention support order shall file a contest not later than thirty days after notice of the registration, but if the contesting party does not reside in the United States, the contest must be filed not later than sixty days after notice of the registration.

(c) If the nonregistering party fails to contest the registered Convention support order by the time specified in subsection (b), the order is enforceable.

(d) A contest of a registered Convention support order may be based only on grounds set forth in section 454.1701. The contesting party bears the burden of proof.

(e) In a contest of a registered Convention support order, a tribunal of this state:

(1) is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

(2) may not review the merits of the order.

(f) A tribunal of this state deciding a contest of a registered Convention support order shall promptly notify the parties of its decision.

(g) A challenge or appeal, if any, does not stay the enforcement of a Convention support order unless there are exceptional circumstances.

454.1701. RECOGNITION AND ENFORCEMENT OF REGISTERED CONVENTION SUPPORT ORDER. — (a) Except as otherwise provided in subsection (b), a tribunal of this state shall recognize and enforce a registered Convention support order.

(b) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered Convention support order:

(1) recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(2) the issuing tribunal lacked personal jurisdiction consistent with section 454.1515;

(3) the order is not enforceable in the issuing country;

(4) the order was obtained by fraud in connection with a matter of procedure;

(5) a record transmitted in accordance with section 454.1695 lacks authenticity or integrity;

(6) a proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;

(7) the order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under sections 454.1500 to 454.1728 in this state;

(8) payment, to the extent alleged arrears have been paid in whole or in part;

(9) in a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

(A) if the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(B) if the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(10) the order was made in violation of section 454.1710.

(c) If a tribunal of this state does not recognize a Convention support order under subsection (b)(2), (4), or (9):

(1) the tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new Convention support order; and

(2) the family support division shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under section 454.1689.

454.1704. PARTIAL ENFORCEMENT — If a tribunal of this state does not recognize and enforce a Convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a Convention support order.

454.1707. FOREIGN SUPPORT AGREEMENT. — (a) Except as otherwise provided in subsections (c) and (d), a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.

(b) An application or direct request for recognition and enforcement of a foreign support agreement must be accompanied by:

(1) a complete text of the foreign support agreement; and

(2) a record stating that the foreign support agreement is enforceable as an order of support in the issuing country.

(c) A tribunal of this state may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(d) In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if it finds:

(1) recognition and enforcement of the agreement is manifestly incompatible with public policy;

(2) the agreement was obtained by fraud or falsification;

(3) the agreement is incompatible with a support order involving the same parties and having the same purpose in this state, another state, or a foreign country if the support order is entitled to recognition and enforcement under sections 454.1500 to 454.1728 in this state; or

(4) the record submitted under subsection (b) lacks authenticity or integrity.

(e) A proceeding for recognition and enforcement of a foreign support agreement must be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

454.1710. MODIFICATION OF CONVENTION CHILD SUPPORT ORDER. — (a) A tribunal of this state may not modify a Convention child support order if the obligee remains a resident of the foreign country where the support order was issued unless:

(1) the obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or

(2) the foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

(b) If a tribunal of this state does not modify a Convention child support order because the order is not recognized in this state, section 454.1701(c) applies.

454.1713. PERSONAL INFORMATION — LIMIT ON USE. — Personal information gathered or transmitted under this Article, sections 454.1680 to 454.1716, may be used only for the purposes for which it was gathered or transmitted.

454.1716. RECORD IN ORIGINAL LANGUAGE — ENGLISH TRANSLATION. — A record filed with a tribunal of this state under this Article, sections 454.1680 to 454.1716, must be in the original language and, if not in English, must be accompanied by an English translation.

ARTICLE 8
INTERSTATE RENDITION

454.1719. GROUNDS FOR RENDITION. — (a) For purposes of this Article, sections 454.1719 to 454.1722, "governor" includes an individual performing the functions of governor or the executive authority of a state covered under sections 454.1500 to 454.1728.

(b) The governor of this state may:

(1) demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) on the demand of the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with sections 454.1500 to 454.1728 applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

454.1722. CONDITIONS OF RENDITION. — (a) Before making a demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty days previously the obligee had initiated proceedings for support pursuant to sections 454.1500 to 454.1728 or that the proceeding would be of no avail.

(b) If, under sections 454.1500 to 454.1728 or a law substantially similar to sections 454.1500 to 454.1728, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a

proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

ARTICLE 9
MISCELLANEOUS PROVISIONS

454.1725. UNIFORMITY OF APPLICATION AND CONSTRUCTION. — In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

454.1727. SEVERABILITY. — If any provision of sections 454.1500 to 454.1728 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of sections 454.1500 to 454.1728 which can be given effect without the invalid provision or application, and to this end the provisions of sections 454.1500 to 454.1728 are severable.

454.1728. EFFECTIVE DATE. — Sections 454.1500 to 454.1728 shall become effective upon the United States filing its instrument of ratification of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, adopted at The Hague Conference on Private International Law on November 23, 2007.

454.1730. APPLICABILITY OF CERTAIN STATE LAWS. — The provisions of sections 210.817, 210.822, 210.823, 210.834, and 210.836 shall apply to a proceeding under sections 454.1500 to 454.1728, but no other provisions of sections 210.817 through 210.852 shall apply.

[454.850. DEFINITIONS. — In sections 454.850 to 454.997:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(4) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by section 452.350, RSMo, or 454.505, to withhold support from the income of the obligor.

(7) "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under the provisions of sections 454.850 to 454.997 or a law or procedure substantially similar to sections 454.850 to 454.997, or under a law or procedure substantially similar to the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act .

(8) "Initiating tribunal" means the authorized tribunal in an initiating state.

(9) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(12) "Obligee" means:

(i) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(ii) a state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(iii) an individual seeking a judgment determining parentage of the individual's child.

(13) "Obligor" means an individual, or the estate of a decedent:

(i) who owes or is alleged to owe a duty of support;

(ii) who is alleged but has not been adjudicated to be a parent of a child; or

(iii) who is liable under a support order.

(14) "Register" means to record or file a support order or judgment determining parentage in the tribunal having jurisdiction in such action.

(15) "Registering tribunal" means a tribunal in which a support order is registered.

(16) "Responding state" means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under the provisions of sections 454.850 to 454.997 or a law substantially similar to sections 454.850 to 454.997, or under a law or procedure substantially similar to the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act.

(17) "Responding tribunal" means the authorized tribunal in a responding state.

(18) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

(19) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes:

(i) an Indian tribe; and

(ii) a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under sections 454.850 to 454.997 or the procedures under the uniform reciprocal enforcement of support act or the revised uniform reciprocal enforcement of support act.

(20) "Support enforcement agency" means a public official or agency authorized to seek:

(i) enforcement of support orders or laws relating to the duty of support;

(ii) establishment or modification of child support;

(iii) determination of parentage; or

(iv) to locate obligors or their assets.

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.**]**

[454.853. TRIBUNALS IN MISSOURI. — The courts and the division of child support enforcement are the tribunals of this state.**]**

[454.855. REMEDIES, CUMULATIVE. — Remedies provided by sections 454.850 to 454.997 are cumulative and do not affect the availability of remedies under other law.**]**

[454.857. JURISDICTION, EXTENDED PERSONAL JURISDICTION. — In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) the individual is personally served with notice within this state;

(2) the individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) the individual resided with the child in this state;

(4) the individual resided in this state and provided prenatal expenses or support for the child;

(5) the child resides in this state as a result of the acts or directives of the individual;

(6) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

(7) the individual asserted parentage in the putative father registry maintained in this state by the department of health and senior services; or

(8) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.**]**

[454.860. JURISDICTION, EVIDENCE AND DISCOVERY FROM A FOREIGN STATE--CONFLICT OF LAWS. — A tribunal of this state exercising personal jurisdiction over a nonresident under section 454.857 may apply section 454.917 to receive evidence from another state, and section 454.922 to obtain discovery through a tribunal of another state. In all other respects, sections 454.880 to 454.983 do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by sections 454.850 to 454.997.**]**

[454.862. TRIBUNAL OF THIS STATE MAY BE INITIATING OR RESPONDING TRIBUNAL. — Under sections 454.850 to 454.997, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.**]**

[454.865. JURISDICTION MAY BE EXERCISED, WHEN--JURISDICTION NOT PROPER, WHEN. — (a) A tribunal of this state may exercise jurisdiction to establish a

support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

(1) the petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

(2) the contesting party timely challenges the exercise of jurisdiction in the other state; and

(3) if relevant, this state is the home state of the child.

(b) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

(1) the petition or comparable pleading in the other state is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(2) the contesting party timely challenges the exercise of jurisdiction in this state; and

(3) if relevant, the other state is the home state of the child.**]**

[454.867. JURISDICTION, PROCEEDINGS INVOLVING A FOREIGN TRIBUNAL, EXCLUSIVE JURISDICTION, MODIFICATIONS OF ORDERS, LOSS OF EXCLUSIVE JURISDICTION, RECOGNITION OF FOREIGN JURISDICTION, EFFECT OF TEMPORARY SUPPORT ORDER ON JURISDICTION, SPOUSAL SUPPORT ORDER. — (a) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(1) as long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) until each individual party has filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to sections 454.850 to 454.997 or a law substantially similar to sections 454.850 to 454.997.

(c) If a child support order of this state is modified by a tribunal of another state pursuant to sections 454.850 to 454.997 or a law substantially similar to sections 454.850 to 454.997, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(1) enforce the order that was modified as to amounts accruing before the modification;

(2) enforce nonmodifiable aspects of that order; and

(3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to sections 454.850 to 454.997 or a law substantially similar to sections 454.850 to 454.997.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal

support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.**]**

[454.869. JURISDICTION, PROCEEDINGS INVOLVING A FOREIGN TRIBUNAL, TRIBUNAL REQUESTS TO ENFORCE OR MODIFY SUPPORT ORDERS. — (a) A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(b) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply section 454.917 to receive evidence from another state and section 454.922 to obtain discovery through a tribunal of another state.

(c) A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.]

[454.871. JURISDICTION, MULTIPLE SUPPORT ORDERS--WHICH ORDER RECOGNIZED, PROCEDURE. — (a) If a proceeding is brought under sections 454.850 to 454.997, and only one tribunal has issued a child support order, the order of that tribunal is controlling and must be recognized.

(b) If a proceeding is brought under sections 454.850 to 454.997, and two or more child support orders have been issued by tribunals of this state or another state with regard to the same obligor and child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction under sections 454.850 to 454.997, the order of that tribunal is controlling and must be recognized.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under sections 454.850 to 454.997, an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued is controlling and must be recognized.

(3) If none of the tribunals would have continuing exclusive jurisdiction under sections 454.850 to 454.997, the tribunal of this state having jurisdiction over the parties must issue a child support order, which is controlling and must be recognized.

(c) If two or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this state, a party may request a tribunal of this state to determine which order controls and must be recognized under subsection (b) of this section. The request must be accompanied by a certified copy of every support order in effect. Every party whose rights may be affected by a determination of the controlling order must be given notice of the request for that determination.

(d) The tribunal that issued the order that must be recognized as controlling under subsection (a), (b) or (c) of this section is the tribunal that has continuing, exclusive jurisdiction in accordance with section 454.867.

(e) A tribunal of this state which determines by order the identity of the controlling child support order under subsection (b)(1) or (b)(2) of this section or which issues a new controlling child support order under subsection (b)(3) shall include in that order the basis upon which the tribunal made its determination.

(f) Within thirty days after issuance of the order determining the identity of the controlling order, the party obtaining that order shall file a certified copy of it with each tribunal that had issued or registered an earlier order of child support. Failure of the party obtaining the order to file a certified copy as required subjects that party to appropriate sanctions by a tribunal in which the issue of failure to file arises, but that failure has no effect on the validity or enforceability of the controlling order.**]**

[454.874. JURISDICTION, MULTIPLE REGISTRATIONS OR PETITIONS FOR SUPPORT ORDERS, MANNER OF TREATMENT. — In responding to multiple registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.**]**

[454.877. COLLECTIONS PURSUANT TO ORDER OF FOREIGN TRIBUNAL, CREDITED, HOW. — Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state.**]**

[454.880. PROCEEDINGS AUTHORIZED, COMMENCEMENT OF PROCEEDINGS. — (a) Except as otherwise provided in sections 454.850 to 454.997, this article applies to all proceedings under sections 454.850 to 454.997.

(b) Sections 454.850 to 454.997, provide for the following proceedings:

(1) establishment of an order for spousal support or child support pursuant to section 454.930;

(2) enforcement of a support order and income withholding order of another state without registration pursuant to sections 454.932 to 454.946;

(3) registration of an order for spousal support or child support of another state for enforcement pursuant to sections 454.948 to 454.981;

(4) modification of an order for child support or spousal support issued by a tribunal of this state pursuant to sections 454.862 to 454.869;

(5) registration of an order for child support of another state for modification pursuant to sections 454.948 to 454.981;

(6) determination of parentage pursuant to section 454.983; and

(7) assertion of jurisdiction over nonresidents pursuant to sections 454.857 to 454.860.

(c) An individual petitioner or a support enforcement agency may commence a proceeding authorized under sections 454.850 to 454.997, by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.**]**

[454.882. MINOR, PROCEEDING ON BEHALF OF. — A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.**]**

[454.885. APPLICABLE LAW, CHOICE OF LAW. — Except as otherwise provided by sections 454.850 to 454.997, a responding tribunal of this state:

(1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.**]**

[454.887. COPIES OF PETITION AND DOCUMENTS FORWARDED. — (a) Upon the filing of a petition authorized by sections 454.850 to 454.997, an initiating tribunal of this state shall forward three copies of the petition and its accompanying documents:

(1) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) If a responding state has not enacted the uniform interstate family support act or a law or procedure substantially similar to the uniform interstate family support act, a tribunal of this state may issue a certificate or other documents and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.**]**

[454.890. RECEIPT OF PETITION BY STATE TRIBUNAL, NOTIFICATION OF PETITIONER, POWERS OF COURT. — (a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to subsection (c) of section 454.880, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(b) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(1) issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by specified methods;

(11) award reasonable attorney's fees and other fees and costs; and

(12) grant any other available remedy.

(c) A responding tribunal of this state shall include a support order issued under sections 454.850 to 454.997, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under sections 454.850 to 454.997, upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under sections 454.850 to 454.997, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.**]**

[454.892. RECEIPT BY INAPPROPRIATE TRIBUNAL, PETITION AND DOCUMENTS, FORWARDED, NOTIFICATION. — If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner by first class mail where and when the pleading was sent.**]**

[454.895. PROCEEDING, SERVICES PROVIDED BY SUPPORT ENFORCEMENT AGENCY. — (a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under sections 454.850 to 454.997.

(b) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(1) take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(5) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) Sections 454.850 to 454.997, do not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.**]**

[454.897. ATTORNEY GENERAL'S ORDER ON NEGLECT BY SUPPORT ENFORCEMENT AGENCY'S DUTIES. — If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under sections 454.850 to 454.997 or may provide those services directly to the individual.**]**

[454.900. REPRESENTATION BY COUNSEL. — An individual may employ private counsel to represent the individual in proceedings authorized by sections 454.850 to 454.997.**]**

[454.902. DIVISION OF CHILD SUPPORT ENFORCEMENT IS STATE INFORMATION AGENCY, DUTIES. — (a) The division of child support enforcement is the state information agency under sections 454.850 to 454.997.

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under sections 454.850 to 454.997, and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) maintain a register of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under sections 454.850 to 454.997, received from an initiating tribunal or the state information agency of the initiating state; and

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and Social Security.**]**

[454.905. PETITIONS, VERIFICATION REQUIREMENTS. — (a) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under sections 454.850 to 454.997, must verify the petition. Unless otherwise ordered under section 454.907, the petition or accompanying documents must provide, so far as known, the name, residential address, and Social Security numbers of the obligor and the obligee, and the name, sex, residential address, Social Security number, and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.**]**

[454.907. PLEADINGS, NONDISCLOSURE OF INFORMATION. — Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under sections 454.850 to 454.997.**]**

[454.910. PAYMENT OF FEES AND COSTS, ATTORNEY'S FEES. — (a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under sections 454.948 to 454.981, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.**]**

[454.912. JURISDICTION, PERSONAL, NOT OBTAINED FOR ANOTHER PROCEEDING, IMMUNITY FROM SERVICE OF PROCESS, WHEN. — (a) Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by

private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under sections 454.850 to 454.997.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under sections 454.850 to 454.997, committed by a party while present in this state to participate in the proceeding.**]**

[454.915. PARENTAGE, PREVIOUS DETERMINATION, EFFECT ON DEFENSE OF NONPARENTAGE. — A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under sections 454.850 to 454.997.**]**

[454.917. PRESENCE OF PETITIONER FOR JURISDICTION OF TRIBUNAL, EVIDENCE ADMISSIBLE. — (a) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(b) A verified petition, affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under sections 454.850 to 454.997, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under sections 454.850 to 454.997.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under sections 454.850 to 454.997.**]**

[454.920. INQUIRIES BETWEEN TRIBUNALS, COMMUNICATION MEANS PERMITTED. — A tribunal of this state may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this state may furnish similar information by similar means to a tribunal of another state.**]**

[454.922. DISCOVERY, REQUEST OF ASSISTANCE BETWEEN TRIBUNALS. — A tribunal of this state may:

(1) request a tribunal of another state to assist in obtaining discovery; and

(2) upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.**]**

[454.927. DISBURSEMENTS, STATEMENT FURNISHED. — A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.**]**

[454.930. SUPPORT ORDERS ISSUED, WHEN, TEMPORARY CHILD SUPPORT ORDER ISSUED, WHEN. — (a) If a support order entitled to recognition under sections 454.850 to 454.997, has not been issued, a responding tribunal of this state may issue a support order if:

(1) the individual seeking the order resides in another state; or

(2) the support enforcement agency seeking the order is located in another state.

(b) The tribunal may issue a temporary child support order if:

(1) the respondent has signed a verified statement acknowledging parentage;

(2) the respondent has been determined by or pursuant to law to be the parent; or

(3) there is other clear and convincing evidence that the respondent is the child's parent.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 454.890.**]**

[454.932. INCOME WITHHOLDING ORDER, ISSUED IN ANOTHER STATE. — An income withholding order issued in another state may be sent to the person or entity defined as the obligor's employer under section 452.350, RSMo, or section 454.505 without first filing a petition or comparable pleading or registering the order with a tribunal of this state.**]**

[454.934. INCOME WITHHOLDING ORDERS, EMPLOYER'S DUTIES. — (a) Upon receipt of the order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.

(c) Except as provided in subsection (d) of this section and section 454.936, the employer shall withhold and distribute the funds as directed in the withholding order by complying with the terms of the order, as applicable, that specify:

(1) the duration and the amount of periodic payments of current child support, stated as a sum certain;

(2) the person or agency designated to receive payments and the address to which the payments are to be forwarded;

(3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(4) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(5) the amount of periodic payments of arrears and interest on arrears, stated as sums certain.

(d) The employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(1) the employer's fee for processing an income withholding order;

(2) the maximum amount permitted to be withheld from the obligor's income;

(3) the time periods within which the employer must implement the withholding order and forward the child support payment.**]**

[454.936. MULTIPLE ORDERS TO WITHHOLD SUPPORT, COMPLIANCE OF EMPLOYER, WHEN. — If the obligor's employer receives multiple orders to withhold support from the earnings of the same obligor, the employer shall be deemed to have satisfied the terms of the multiple orders if the employer complied with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support orders.**]**

[454.938. IMMUNITY FROM CIVIL LIABILITY OF EMPLOYER FOR COMPLIANCE. — An employer who complies with an income withholding order issued in another state in accordance with sections 454.932 to 454.946, is not subject to civil liability to any individual or agency with regard to the employer's withholding child support from the obligor's income.**]**

[454.941. PENALTIES FOR NONCOMPLIANCE OF EMPLOYER. — An employer who willfully fails to comply with an income withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.**]**

[454.943. VALIDITY OF INCOME WITHHOLDING CONTESTED, PROCEDURE. — (a) An obligor may contest the validity or enforcement of an income withholding order issued in another state and received directly by an employer in this state in the same manner as if the order had been issued by a tribunal of this state. Section 454.956 applies to the contest.

(b) The obligor shall give notice of the contest to:

(1) a support enforcement agency providing services to the obligee;

(2) each employer which has directly received an income withholding order; and

(3) the person or agency designated to receive payments in the income withholding order, or if no person or agency is designated, to the obligee.**]**

[454.946. FOREIGN TRIBUNAL'S ORDER ENFORCED, WHEN, PROCEDURE. — (a) A party seeking to enforce a support order or an income withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to sections 454.850 to 454.997.**]**

[454.948. REGISTRATION OF A FOREIGN TRIBUNAL'S ORDER REQUIRED. — A support order or an income withholding order issued by a tribunal of another state may be registered in this state for enforcement.**]**

[454.951. PROCEDURE FOR REGISTERING A FOREIGN TRIBUNAL'S ORDER. — (a) A support order or income withholding order of another state may be registered in this state by sending the following documents and information to the appropriate tribunal in this state:

(1) a letter of transmittal to the tribunal requesting registration and enforcement;

(2) two copies, including one certified copy, of all orders to be registered, including any modification of an order;

(3) a sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) the name of the obligor and, if known:

(i) the obligor's address and Social Security number;

(ii) the name and address of the obligor's employer and any other source of income of the obligor; and

(iii) a description and the location of property of the obligor in this state not exempt from execution; and

(5) the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.**]**

[454.953. REGISTRATION IS COMPLETE AND ENFORCEABLE WHEN. — (a) A support order or income withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(b) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(c) Except as otherwise provided in sections 454.948 to 454.981, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.**]**

[454.956. ISSUING STATE LAW GOVERNS--STATUTE OF LIMITATIONS. — (a) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

(b) In a proceeding for arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies.**]**

[454.958. NOTIFICATION OF NONREGISTERING PARTY, PROCEDURE. — (a) When a support order or income withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) The notice must inform the nonregistering party:

(1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after the date of mailing or personal service of the notice;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(4) of the amount of any alleged arrearages.

(c) Upon registration of an income withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to section 452.350, RSMo, or section 454.505.**]**

[454.961. NONREGISTERING PARTY'S CONTEST OF A SUPPORT ORDER, PROCEDURE, EFFECT. — (a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within twenty days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 454.963.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.**]**

[454.963. BURDEN OF PROOF, CONTEST BY NONREGISTERING PARTY. — (a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) the issuing tribunal lacked personal jurisdiction over the contesting party;

(2) the order was obtained by fraud;

(3) the order has been vacated, suspended, or modified by a later order;

(4) the issuing tribunal has stayed the order pending appeal;

(5) there is a defense under the law of this state to the remedy sought;

(6) full or partial payment has been made; or

(7) the statute of limitation under section 454.956 precludes enforcement of some or all of the arrearages.

(b) If a party presents evidence establishing a full or partial defense under subsection (a), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(c) If the contesting party does not establish a defense under subsection (a) to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.**]**

[454.966. CONFIRMATION OF REGISTRATION. — Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.**]**

[454.968. MODIFICATIONS OF FOREIGN TRIBUNAL'S ORDERS REGISTERED HOW, WHEN. — A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in sections 454.948 to 454.956 if the order has not been registered. A petition for modification may be filed at the same

time as a request for registration, or later. The pleading must specify the grounds for modification.**]**

[454.971. MODIFICATIONS OF FOREIGN TRIBUNAL'S ORDERS ENFORCED, WHEN. — A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of section 454.973 have been met.**]**

[454.973. MODIFICATION OF AN ORDER ISSUED IN A FOREIGN TRIBUNAL PERMITTED, WHEN. — (a) After a child support order issued in another state has been registered in this state, unless the provisions of section 454.978 apply, the responding tribunal of this state may modify that order only if, after notice and hearing, it finds that:

(1) the following requirements are met:

(i) the child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) a petitioner who is a nonresident of this state seeks modification; and

(iii) the respondent is subject to the personal jurisdiction of the tribunal of this state; or

(2) an individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this state may modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction which has not enacted the Uniform Interstate Family Support Act, as amended, the written consent of the individual party residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state. If two or more tribunals have issued child support orders for the same obligor and child, the order that is controlling and must be recognized under the provisions of section 454.871 establishes the nonmodifiable aspects of the support order.

(d) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.**]**

[454.976. RECOGNITION OF A FOREIGN TRIBUNAL'S MODIFICATION OF THIS STATE'S ORDER, WHEN. — A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state which assumed jurisdiction pursuant to sections 454.850 to 454.997 or a law substantially similar to sections 454.850 to 454.997 and, upon request, except as otherwise provided in sections 454.850 to 454.997 shall:

(1) enforce the order that was modified only as to amounts accruing before the modification;

(2) enforce only nonmodifiable aspects of that order;

(3) provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and

(4) recognize the modifying order of the other state, upon registration, for the purpose of enforcement.**]**

[454.978. JURISDICTION FOR A CHILD SUPPORT PROCEEDING. — (a) If all of the individual parties reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(b) A tribunal of this state exercising jurisdiction as provided in this section shall apply the provisions of sections 454.850 to 454.877 and sections 454.948 to 454.981 to the enforcement or modification proceeding. Sections 454.880 to 454.946 and sections 454.983 to 454.989 do not apply and the tribunal shall apply the procedural and substantive law of this state.**]**

[454.981. CERTIFIED COPY OF A MODIFICATION FILED WITH ISSUING TRIBUNAL. — Within thirty days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered. Failure of the party obtaining the order to file a certified copy as required subjects that party to appropriate sanctions by a tribunal in which the issue of failure to file arises, but that failure has no effect on the validity or enforceability of the modified order of the new tribunal of continuing, exclusive jurisdiction.**]**

[454.983. DETERMINATION OF PARENTAGE--WHICH TRIBUNAL. — (a) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under sections 454.850 to 454.997 or a law or procedure substantially similar to sections 454.850 to 454.997, or a law or procedure substantially similar to the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(b) In a proceeding to determine parentage, a responding tribunal of this state shall apply the procedural and substantive law of this state and the rules of this state on choice of law.**]**

[454.986. GOVERNOR, DEFINED, DUTIES. — (a) For purposes of this article, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by sections 454.850 to 454.997.

(b) The governor of this state may:

(1) demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) on the demand by the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with sections 454.850 to 454.997, applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.**]**

[454.989. SURRENDER OF A PARENT CHARGED WITH FAILURE TO PROVIDE SUPPORT, PROCEDURE. — (a) Before making demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty days previously the obligee had

initiated proceedings for support pursuant to sections 454.850 to 454.997 or that the proceeding would be of no avail.

(b) If, under sections 454.850 to 454.997 or a law substantially similar to sections 454.850 to 454.997, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.**]**

[454.991. CONSTRUCTION AND APPLICATION OF SECTIONS 454.850 TO 454.997. — Sections 454.850 to 454.997 shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of sections 454.850 to 454.997 among states enacting it.**]**

[454.993. CITATION OF THE UNIFORM INTERSTATE FAMILY SUPPORT ACT. — Sections 454.850 to 454.997 may be cited as the "Uniform Interstate Family Support Act".**]**

[454.995. SEVERABILITY. — If any provision of sections 454.850 to 454.997 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of sections 454.850 to 454.997, which can be given effect without the invalid provision or application, and to this end the provisions of 454.850 to 454.997 are severable.**]**

[454.999. APPLICABILITY OF CERTAIN STATUTES. — The provisions of sections 210.822 and 210.834, RSMo, shall apply to a proceeding under sections 454.850 to 454.997, but no other provisions of sections 210.817 through 210.852, RSMo, shall apply.**]**

SECTION B. EFFECTIVE DATE OF REPEAL OF ACT. — The repeal of sections 454.850 to 454.999 of section A of this act shall become effective upon the United States filing its instrument of ratification of The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, adopted at The Hague Conference on Private International Law on November 23, 2007.

Approved June 30, 2011

HB 265 [SS SCS HCS HB 265]

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 professional registration

AN ACT to repeal sections 324.043, 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 334.040, 334.070, 334.090, 334.100, 334.102, 334.103, 334.715, 436.405, 436.412, 436.445, 436.450, 436.455, 436.456, 536.063, 536.067, 536.070, 621.045, 621.100, and 621.110, RSMo, and to enact in lieu thereof thirty-two new sections relating to licensure of certain professions.

SECTION

A. Enacting clause.
324.014. License status, change in to be reported to current employer by licensing body.
324.043. Statute of limitations for disciplinary proceedings — notice requirements — tolling, when.
324.045. Default decision entered, when — set aside, when — good cause defined.
333.041. Qualifications of applicants — examinations — licenses — board may waive requirements in certain cases.
333.042. Application and examination fees for funeral directors, apprenticeship requirements — examination content for applicants — apprenticeship duties — appearance before board — limited license only for cremation — exemptions from apprenticeship.
333.051. Recognition of persons licensed in other states — fees.
333.061. No funeral establishment to be operated by unlicensed person — license requirements, application procedure — license may be suspended or revoked or not renewed.
333.091. License to be displayed.
333.151. Board members — qualifications — terms — vacancies.
333.171. Board meetings — notice — seal.
334.001. Open records subject to release — board disclosure of confidential information, when.
334.040. Examination of applicants, how conducted, grades required, time limitations, extensions.
334.070. Issuance of certificates of registration to licensees, contents — relocation, notification required.
334.090. Fees, amounts, how set.
334.099. Contested hearing, when, procedure — revocation of license, when — hearing to resume practice, when — rulemaking authority.
334.100. Denial, revocation or suspension of license, alternatives, grounds for — reinstatement provisions.
334.102. Emergency suspension or restriction, when, procedure — removal from record, when — disciplinary proceedings permitted, when — judicial review, when.
334.103. Automatic revocation or reinstatement of license, grounds.
334.108. Internet prescriptions and treatment, establishment of physician-patient relationship required.
334.715. Refusal to issue or renew license, grounds, alternatives — complaint procedure — reinstatement, procedure.
436.405. Definitions.
436.412. Violations, disciplinary actions authorized — governing law for contracts.
436.445. Trustee not to make decisions, when.
436.450. Insurance-funded preneed contract requirements.
436.455. Joint account-funded preneed contract requirements.
436.456. Cancellation of contract, when, procedure.
536.063. Contested case, how instituted — pleadings — copies sent parties.
536.067. Notice in contested case — mailing — contents — notice of hearing — time for.
536.070. Evidence — witnesses — objections — judicial notice — affidavits as evidence — transcript.
621.045. Commission to conduct hearings, make determinations — boards included — settlement agreements, default decision, when.
621.100. Complaints — notice — agency may retain counsel — default decision, when — affidavit regarding licensee's status, procedure.
621.110. Commission's findings and recommendations — hearing by agency on disciplinary action.

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

SECTION A. ENACTING CLAUSE. — Sections 324.043, 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 334.040, 334.070, 334.090, 334.100, 334.102, 334.103, 334.715, 436.405, 436.412, 436.445, 436.450, 436.455, 436.456, 536.063, 536.067, 536.070,

621.045, 621.100, and 621.110, RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 324.014, 324.043, 324.045, 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 334.001, 334.040, 334.070, 334.090, 334.099, 334.100, 334.102, 334.103, 334.108, 334.715, 436.405, 436.412, 436.445, 436.450, 436.455, 436.456, 536.063, 536.067, 536.070, 621.045, 621.100, and 621.110, to read as follows:

324.014. LICENSE STATUS, CHANGE IN TO BE REPORTED TO CURRENT EMPLOYER BY LICENSING BODY. — Any board, commission, committee, council, or office within the division of professional registration shall notify any known current employer of a change in a licensee's license and discipline status. An employer may provide a list of current licensed employees and make a request in writing to the board, commission, committee, council, or office within the division of professional registration responsible for the licensee's license, to be notified upon a change in the licensing status of any such licensed employee. Nothing in this section shall be construed as requiring the board, commission, committee, council, or office within the division of professional registration to determine the current employer of any person whose license is sanctioned.

324.043. STATUTE OF LIMITATIONS FOR DISCIPLINARY PROCEEDINGS — NOTICE REQUIREMENTS — TOLLING, WHEN. — 1. Except as provided in this section, no disciplinary proceeding against any person or entity licensed, registered, or certified to practice a profession within the division of professional registration shall be initiated unless such action is commenced within three years of the date upon which the licensing, registering, or certifying agency received notice of an alleged violation of an applicable statute or regulation.

2. For the purpose of this section, notice shall be limited to:

(1) A written complaint;

(2) Notice of final disposition of a malpractice claim, including exhaustion of all extraordinary remedies and appeals;

(3) Notice of exhaustion of all extraordinary remedies and appeals of a conviction based upon a criminal statute of this state, any other state, or the federal government;

(4) Notice of exhaustion of all extraordinary remedies and appeals in a disciplinary action by a hospital, state licensing, registering or certifying agency, or an agency of the federal government.

3. For the purposes of this section, an action is commenced when a complaint is filed by the agency with the administrative hearing commission, any other appropriate agency, or in a court; or when a complaint is filed by the agency's legal counsel with the agency in respect to an automatic revocation or a probation violation.

4. Disciplinary proceedings based upon repeated negligence shall be exempt from all limitations set forth in this section.

5. Disciplinary proceedings based upon a complaint involving sexual misconduct shall be exempt from all limitations set forth in this section.

6. Any time limitation provided in this section shall be tolled:

(1) During any time the accused licensee, registrant, or certificant is practicing exclusively outside the state of Missouri or residing outside the state of Missouri and not practicing in Missouri;

(2) As to an individual complainant, during the time when such complainant is less than eighteen years of age;

(3) During any time the accused licensee, registrant, or certificant maintains legal action against the agency; or

(4) When a settlement agreement is offered to the accused licensee, registrant, or certificant, in an attempt to settle such disciplinary matter without formal proceeding pursuant to section 621.045 until the accused licensee, registrant, or certificant rejects or accepts the settlement agreement.

7. The licensing agency may, in its discretion, toll any time limitation when the accused **applicant,** licensee, registrant, or certificant enters into and participates in a treatment program for chemical dependency or mental impairment.

324.045. DEFAULT DECISION ENTERED, WHEN — SET ASIDE, WHEN — GOOD CAUSE DEFINED. — 1. Notwithstanding any provision of chapter 536, in any proceeding initiated by the division of professional registration or any board, committee, commission, or office within the division of professional registration to determine the appropriate level of discipline or additional discipline, if any, against a licensee of the board, committee, commission, or office within the division, if the licensee against whom the proceeding has been initiated upon a properly pled writing filed to initiate the contested case and upon proper notice fails to plead or otherwise defend against the proceeding, the board, commission, committee, or office within the division shall enter a default decision against the licensee without further proceedings. The terms of the default decision shall not exceed the terms of discipline authorized by law for the division, board, commission, or committee. The division, office, board, commission, or committee shall provide the licensee notice of the default decision in writing.

2. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.

333.041. QUALIFICATIONS OF APPLICANTS — EXAMINATIONS — LICENSES — BOARD MAY WAIVE REQUIREMENTS IN CERTAIN CASES. — 1. Each applicant for a license to practice funeral directing shall furnish evidence to establish to the satisfaction of the board that he or she is:

(1) At least eighteen years of age, and possesses a high school diploma**, a general equivalency diploma,** or equivalent thereof**, as determined, at its discretion, by the board**; **and**

(2) **[**Either a citizen or a bona fide resident of the state of Missouri or entitled to a license pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice funeral directing upon the grant of a license to do so; and

(3)**]** A person of good moral character.

2. Every person desiring to enter the profession of embalming dead human bodies within the state of Missouri and who is enrolled in **[**an**] a program** accredited **[**institution of mortuary science education**] by the American Board of Funeral Service Education, any successor organization, or other accrediting entity as approved by the board,** shall register with the board as a practicum student upon the form provided by the board. After such registration, a student may assist, under the direct supervision of Missouri licensed embalmers and funeral directors, in Missouri licensed funeral establishments, while serving his or her practicum **[**for the accredited institution of mortuary science education**]**. The form for registration as a practicum student shall be accompanied by a fee in an amount established by the board.

3. Each applicant for a license to practice embalming shall furnish evidence to establish to the satisfaction of the board that he or she:

(1) Is at least eighteen years of age, and possesses a high school diploma**, a general equivalency diploma,** or equivalent thereof**, as determined, at its discretion, by the board**;

(2) **[**Is either a citizen or bona fide resident of the state of Missouri or entitled to a license pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice embalming upon the grant of a license to do so;

(3)**]** Is a person of good moral character;

[(4)**] (3)** Has **[**graduated from an institute of mortuary science education**] completed a funeral service education program** accredited by the American Board of Funeral Service Education, **[**or**]** any successor organization **[**recognized by the United States Department of Education, for funeral service education**] , or other accrediting entity as approved by the board**. If an applicant does not **[**appear for the final examination before the board**] complete all requirements for licensure** within five years from the date of his or her **[**graduation from**] completion of** an accredited **[**institution of mortuary science education**] program**, his or her registration as **[**a student**] an apprentice** embalmer shall be automatically canceled**. The applicant shall be required to file a new application and pay applicable fees. No previous apprenticeship shall be considered for the new application**;

[(5)**] (4)** Upon due examination administered by the board, is possessed of a knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative art, together with statutes, rules and regulations governing the care, custody, shelter and disposition of dead human bodies and the transportation thereof or has passed the national board examination of the Conference of Funeral Service Examining Boards. If any applicant fails to pass the state examination, he or she may retake the examination at the next regular examination meeting. The applicant shall notify the board office of his or her desire to retake the examination at least thirty days prior to the date of the examination. Each time the examination is retaken, the applicant shall pay a new examination fee in an amount established by the board;

[(6)**] (5)** Has been employed full time in funeral service in a licensed funeral establishment and has personally embalmed at least twenty-five dead human bodies under the personal supervision of an embalmer who holds a current and valid Missouri embalmer's license or an embalmer who holds a current and valid embalmer's license in a state with which the Missouri board has entered into a reciprocity agreement during an apprenticeship of not less than twelve consecutive months. "Personal supervision" means that the licensed embalmer shall be physically present during the entire embalming process in the first six months of the apprenticeship period and physically present at the beginning of the embalming process and available for consultation and personal inspection within a period of not more than one hour in the remaining six months of the apprenticeship period. All transcripts and other records filed with the board shall become a part of the board files.

4. If the applicant does not **[**appear for oral examination**] complete the application process** within the five years after his or her **[**graduation from an accredited institution of mortuary science education**] completion of an approved program**, then he or she must file a new application and no fees paid previously shall apply toward the license fee.

5. Examinations required by this section and section 333.042 shall be held at least twice a year at times and places fixed by the board. The board shall by rule and regulation prescribe the standard for successful completion of the examinations.

6. Upon establishment of his or her qualifications as specified by this section or section 333.042, the board shall issue to the applicant a license to practice funeral directing or embalming, as the case may require, and shall register the applicant as a duly licensed funeral director or a duly licensed embalmer. Any person having the qualifications required by this section and section 333.042 may be granted both a license to practice funeral directing and to practice embalming.

7. The board shall, upon request, waive any requirement of this chapter and issue a temporary funeral director's license, valid for six months, to the surviving spouse or next of kin or the personal representative of a licensed funeral director, or to the spouse, next of kin, employee or conservator of a licensed funeral director disabled because of sickness, mental incapacity or injury.

333.042. APPLICATION AND EXAMINATION FEES FOR FUNERAL DIRECTORS, APPRENTICESHIP REQUIREMENTS — EXAMINATION CONTENT FOR APPLICANTS — APPRENTICESHIP DUTIES — APPEARANCE BEFORE BOARD — LIMITED LICENSE ONLY FOR CREMATION — EXEMPTIONS FROM APPRENTICESHIP. — 1. Every person desiring to enter the profession of funeral directing in this state shall make application with the state board of embalmers and funeral directors and pay the current application and examination fees. **Except as otherwise provided in section 41.950,** applicants not entitled to a license pursuant to section 333.051 shall serve an apprenticeship for at least twelve **consecutive** months in a funeral establishment licensed for the care and preparation for burial and transportation of the human dead in this state or in another state which has established standards for admission to practice funeral directing equal to, or more stringent than, the requirements for admission to practice funeral directing in this state. The applicant shall devote at least fifteen hours per week to his or her duties as an apprentice under the supervision of a Missouri licensed funeral director. Such applicant shall submit proof to the board, on forms provided by the board, that the applicant has arranged and conducted ten funeral services during the applicant's apprenticeship under the supervision of a Missouri licensed funeral director. Upon completion of the apprenticeship, the applicant shall appear before the board to be tested on the applicant's legal and practical knowledge of funeral directing, funeral home licensing, preneed funeral contracts and the care, custody, shelter, disposition and transportation of dead human bodies. Upon acceptance of the application and fees by the board, an applicant shall have twenty-four months to successfully complete the requirements for licensure found in this section or the application for licensure shall be canceled.

2. If a person applies for a limited license to work only in a funeral establishment which is licensed only for cremation, including transportation of dead human bodies to and from the funeral establishment, he or she shall make application, pay the current application and examination fee and successfully complete the Missouri law examination. He or she shall be exempt from the twelve-month apprenticeship **required by subsection 1 of this section** and the practical examination before the board. If a person has a limited license issued pursuant to this subsection, he or she may obtain a full funeral director's license if he or she fulfills the apprenticeship and successfully completes the funeral director practical examination.

3. If an individual is a Missouri licensed embalmer or has **[**graduated from an institute of mortuary science education**]** **completed a program** accredited by the American Board of Funeral Service Education **[**or**]** **,** any successor organization **[**recognized by the United States Department of Education for funeral service education**]**, **or other accrediting entity as approved by the board** or has successfully completed a course of study in funeral directing offered by **[**a college**]** **an institution** accredited by a recognized national, regional or state accrediting body and approved by the state board of embalmers and funeral directors, and desires to enter the profession of funeral directing in this state, the individual shall comply with all the requirements for licensure as a funeral director pursuant to subsection 1 of section 333.041 and subsection 1 of this section; however, the individual is exempt from the twelve-month apprenticeship required by subsection 1 of this section.

333.051. RECOGNITION OF PERSONS LICENSED IN OTHER STATES — FEES. — 1. Any **[**nonresident**]** individual holding a valid, unrevoked and unexpired license as a funeral director or embalmer in the state of his **or her** residence may be granted a license to practice funeral directing or embalming in this state on application to the board and on providing the board with such evidence as to his **or her** qualifications as is required by the board. **[**No license shall be granted to a nonresident applicant except one who resides in a county contiguous and adjacent to the state of Missouri and who is regularly engaged in the practice of funeral directing or embalming, as defined by this chapter, at funeral establishments within this state or in an establishment located in a county contiguous and adjacent to the state of Missouri, unless the law of the state of the applicant's residence authorizes the granting of licenses to practice funeral

directing in such state to persons licensed as funeral directors under the law of the state of Missouri.**]**

2. Any individual holding a valid, unrevoked and unexpired license as an embalmer or funeral director in another state having requirements substantially similar to those existing in this state **[**who is or intends to become a resident of this state**]** may apply for a license to practice in this state by filing with the board a certified statement from the examining board of the state or territory in which the applicant holds his **or her** license showing the grade rating upon which **[**his**] the** license was granted, together with a recommendation, and the board shall grant the applicant a license upon his **or her** successful completion of an examination over Missouri laws as required in section 333.041 or section 333.042 if the board finds that the applicant's qualifications meet the requirements for funeral directors or embalmers in this state at the time the applicant was originally licensed in the other state.

3. A person holding a valid, unrevoked and unexpired license to practice funeral directing or embalming in another state or territory with requirements less than those of this state may, after five consecutive years of active experience as a licensed funeral director or embalmer in that state, apply for a license to practice in this state after passing a test to prove his **or her** proficiency, including but not limited to a knowledge of the laws and regulations of this state as to funeral directing and embalming.

333.061. NO FUNERAL ESTABLISHMENT TO BE OPERATED BY UNLICENSED PERSON — LICENSE REQUIREMENTS, APPLICATION PROCEDURE — LICENSE MAY BE SUSPENDED OR REVOKED OR NOT RENEWED. — 1. No funeral establishment shall be operated in this state unless the owner or operator thereof has a license issued by the board.

2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

(1) That the establishment is under the general management and the supervision of a duly licensed funeral director;

(2) That all embalming performed therein is performed by or under the direct supervision of a duly licensed embalmer;

(3) That any place in the funeral establishment where embalming is conducted contains a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and disposal facilities including running water, and complies with the sanitary standard prescribed by the department of health and senior services for the prevention of the spread of contagious, infectious or communicable diseases;

(4) Each funeral establishment shall have **[**available in the preparation or embalming room**]** a register book or log which shall be available at all times **[**in full view**]** for the board's inspector and **[**the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and the embalmer's license number shall be noted in the book**] that shall contain:**

(a) The name of each body that has been in the establishment;

(b) The date the body arrived at the establishment;

(c) If applicable, the place of embalming, if known; and

(d) If the body was embalmed at the establishment, the date and time that the embalming took place, and the name, signature, and license number of the embalmer; and

(5) The establishment complies with all applicable state, county or municipal zoning ordinances and regulations.

3. The board shall grant or deny each application for a license pursuant to this section within thirty days after it is filed. The applicant may request in writing up to two thirty-day extensions of the application, provided the request for an extension is received by the board prior to the expiration of the thirty-day application or extension period.

4. Licenses shall be issued pursuant to this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

5. The board may refuse to renew or may suspend or revoke any license issued pursuant to this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license, or for the violation by the owner of the funeral establishment of any of the provisions of section 333.121. No new license shall be issued to the owner of a funeral establishment or to any corporation controlled by such owner for three years after the revocation of the license of the owner or of a corporation controlled by the owner. Before any action is taken pursuant to this subsection the procedure for notice and hearing as prescribed by section 333.121 shall be followed.

333.091. LICENSE TO BE DISPLAYED. — **[**Each establishment, funeral director or embalmer receiving a license under this chapter shall have recorded in the office of the local registrar of vital statistics of the registration district in which the licensee practices.**]** All licenses or registrations, or duplicates thereof, issued pursuant to this chapter shall be displayed at each place of business.

333.151. BOARD MEMBERS — QUALIFICATIONS — TERMS — VACANCIES. — 1. The state board of embalmers and funeral directors shall consist of **[**ten**] six** members, including one voting public member appointed by the governor with the advice and consent of the senate. Each member, other than the public member, appointed shall possess either a license to practice embalming or a license to practice funeral directing in this state or both said licenses and shall have been actively engaged in the practice of embalming or funeral directing for a period of five years next before his or her appointment. Each member shall be a United States citizen, a resident of this state for a period of at least one year, a qualified voter of this state and shall be of good moral character. Not more than **[**five**] three** members of the board shall be of the same political party. The nonpublic members shall be appointed by the governor, with the advice and consent of the senate**[**, one from each of the state's congressional districts be of good moral character and submit an audited financial statement of their funeral establishment by an independent auditor for the previous five years. This audited financial statement must include all at-need and preneed business**]** . **A majority of the members shall constitute a quorum. Members shall be appointed to represent diversity in gender, race, ethnicity, and the various geographic regions of the state.**

2. Each member of the board shall serve for a term of five years. Any vacancy on the board shall be filled by the governor and the person appointed to fill the vacancy shall possess the qualifications required by this chapter and shall serve until the end of the unexpired term of his or her predecessor, if any.

3. The public member shall be at the time of his or her appointment 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.

333.171. BOARD MEETINGS — NOTICE — SEAL. — The board shall hold at least two regular meetings each year for the purpose of administering examinations at times and places fixed by the board. Other meetings shall be held at the times fixed by regulations of the board

or on the call of the chairman of the board. Notice of the time and place of each regular or special meeting shall be mailed by the executive secretary to each member of the board at least five days before the date of the meeting. **[**At all meetings of the board three members constitute a quorum.**]** The board may adopt and use a common seal.

334.001. OPEN RECORDS SUBJECT TO RELEASE — BOARD DISCLOSURE OF CONFIDENTIAL INFORMATION, WHEN. — 1. Notwithstanding any other provision of law to the contrary, the following information is an open record and shall be released upon request of any person and may be published on the board's website:

(1) The name of a licensee or applicant;

(2) The licensee's business address;

(3) Registration type;

(4) Currency of the license, certificate, or registration;

(5) Professional schools attended;

(6) Degrees and certifications, including certification by the American Board of Medical Specialties, the American Osteopathic Association, or other certifying agency approved by the board by rule;

(7) To the extent provided to the board after August 28, 2011, discipline by another state or administrative agency;

(8) Limitations on practice placed by a court of competent jurisdiction;

(9) Any final discipline by the board, including the content of the settlement agreement or order issued; and

(10) Whether a discipline case brought by the board is pending in the administrative hearing commission or any court.

2. All other information pertaining to a licensee or applicant not specifically denominated an open record in subsection 1 of this section is a closed record and confidential.

3. The board shall disclose confidential information without charge or fee upon written request of the licensee or applicant if the information is less than five years old. If the information requested is more than five years old, the board may charge a fee equivalent to the fee specified by regulation.

4. At its discretion, the board may disclose confidential information, without the consent of the licensee or applicant, to a licensee or applicant for a license in order to further a board investigation or to facilitate settlement negotiations with the board, in the course of voluntary exchange of information with another state's licensing authority, pursuant to a court order, or to other administrative or law enforcement agencies acting within the scope of their statutory authority.

5. Information obtained from a federal administrative or law enforcement agency shall be disclosed only after the board has obtained written consent to the disclosure from the federal administrative or law enforcement agency.

6. The board is entitled to the attorney/client privilege and work product privilege to the same extent as any other person.

334.040. EXAMINATION OF APPLICANTS, HOW CONDUCTED, GRADES REQUIRED, TIME LIMITATIONS, EXTENSIONS. — 1. Except as provided in section 334.260, all persons desiring to practice as physicians and surgeons in this state shall be examined as to their fitness to engage in such practice by the board. All persons applying for examination shall file a completed application with the board **[**at least eighty days before the date set for examination upon blanks**]** **upon forms** furnished by the board.

2. The examination shall be sufficient to test the applicant's fitness to practice as a physician and surgeon. The examination shall be conducted in such a manner as to conceal the identity of the applicant until all examinations have been scored. In all such examinations an average

score of not less than seventy-five percent is required to pass; provided, however, that the board may require applicants to take the Federation Licensing Examination, also known as FLEX, or the United States Medical Licensing Examination (USMLE). If the FLEX examination is required, a weighted average score of no less than seventy-five **[**percent**]** is required to pass. **Scores from one test administration of the FLEX shall not be combined or averaged with scores from other test administrations to achieve a passing score.** The passing score of the United States Medical Licensing Examination shall be determined by the board through rule and regulation. The board shall not issue a permanent license as a physician and surgeon or allow the Missouri state board examination to be administered to any applicant who has failed to achieve a passing score within three attempts on licensing examinations administered in one or more states or territories of the United States, the District of Columbia or Canada. The steps one, two and three of the United States Medical Licensing Examination shall be taken within a seven-year period with no more than three attempts on any step of the examination; however, the board may grant an extension of the seven-year period if the applicant has obtained a MD/PhD degree in a program accredited by the **[**liaison committee on medical education**] Liaison Committee on Medical Education** (LCME) and a regional university accrediting body **or a DO/PhD degree accredited by the American Osteopathic Association and a regional university accrediting body**. The board may waive the provisions of this section if the applicant is licensed to practice as a physician and surgeon in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States or the District of Columbia and no license issued to the applicant has been disciplined in any state or territory of the United States or the District of Columbia**[**. Prior to waiving the provisions of this section, the board may require the applicant to achieve a passing score on one of the following:

(1) The American Specialty Board's certifying examination in the physician's field of specialization;

(2) Part II of the FLEX; or

(3) The Federation portion of the State Medical Board's Special Purpose Examination (SPEX)**] and the applicant is certified in the applicant's area of specialty by the American Board of Medical Specialties, the American Osteopathic Association, or other certifying agency approved by the board by rule**.

3. If the board waives the provisions of this section, then the license issued to the applicant may be limited or restricted to the applicant's board specialty. **[**Scores from one test administration shall not be combined or averaged with scores from other test administrations to achieve a passing score.**]** The board shall not be permitted to favor any particular school or system of healing.

4. If an applicant has not actively engaged in the practice of clinical medicine or held a teaching or faculty position in a medical or osteopathic school approved by the American Medical Association, the Liaison Committee on Medical Education, or the American Osteopathic Association for any two years in the three year period immediately preceding the filing of his or her application for licensure, the board may require successful completion of another examination, continuing medical education, or further training before issuing a permanent license. The board shall adopt rules to prescribe the form and manner of such reexamination, continuing medical education, and training.

334.070. ISSUANCE OF CERTIFICATES OF REGISTRATION TO LICENSEES, CONTENTS — RELOCATION, NOTIFICATION REQUIRED. — 1. Upon due application therefor and upon submission by such person of evidence satisfactory to the board that he **or she** is licensed to practice in this state, and upon the payment of fees required to be paid by this chapter, the board shall issue to **[**him**] such person** a certificate of registration. The certificate of registration shall contain the name of the person to whom it is issued and his **or her** office address **[**and residence address**]**, the expiration date, and the date and number of the license to practice.

2. **[**Every person shall, upon receiving such certificate, cause it to be conspicuously displayed at all times in every office maintained by him in the state. If he maintains more than one office in this state, the board shall without additional fee issue to him duplicate certificates of registration for each office so maintained.**]** If any registrant shall change the location of his **or her** office during the period for which any certificate of registration has been issued, **[**he**] the registrant** shall, within fifteen days thereafter, notify the board of such change **[**and it shall issue to him without additional fee a new registration certificate showing the new location**]**.

334.090. FEES, AMOUNTS, HOW SET. — 1. Each applicant for registration under this chapter shall accompany the application for registration with a registration fee to be paid to the **[**director of revenue**] board**. If the application is filed and the fee paid after the registration renewal date, a delinquent fee shall be paid; but whenever in the opinion of the board the applicant's failure to register is caused by extenuating circumstances including illness of the applicant, as defined by rule and regulation, the delinquent fee may be waived by the board. Whenever any new license is granted to any person under the provisions of this chapter, the board shall, upon application therefor, issue to such licensee a certificate of registration covering a period from the date of the issuance of the license to the next renewal date without the payment of any registration fee.

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. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

334.099. CONTESTED HEARING, WHEN, PROCEDURE — REVOCATION OF LICENSE, WHEN — HEARING TO RESUME PRACTICE, WHEN — RULEMAKING AUTHORITY. — 1. The board may initiate a contested hearing to determine if reasonable cause exists to believe that a licensee or applicant is unable to practice his or her profession with reasonable skill and safety to the public by reason of medical or osteopathic incompetency, mental or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances:

(1) The board shall serve notice pursuant to section 536.067 of the contested hearing at least fifteen days prior to the hearing. Such notice shall include a statement of the reasons the board believes there is reasonable cause to believe that a licensee or applicant is unable to practice his or her profession with reasonable skill and safety to the public by reason of medical or osteopathic incompetency, mental, or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances;

(2) For purposes of this section and prior to any contested hearing, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to the licensee or applicant without the licensee's or applicant's consent, upon issuance of a subpoena by the board. These data and records shall be admissible without further authentication by either board or licensee at any hearing held pursuant to this section;

(3) After a contested hearing before the board, and upon a showing of reasonable cause to believe that a licensee or applicant is unable to practice his or her profession with reasonable skill and safety to the public by reason of medical or osteopathic incompetency, mental, or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances the board may require a licensee or applicant to submit to an examination. The board shall maintain a list of facilities approved to perform such examinations. The licensee or applicant may propose a facility not previously approved to the board and the board may accept such facility as an approved facility for such licensee or applicant by a majority vote;

(4) For purposes of this subsection, every licensee or applicant is deemed to have consented to an examination upon a showing of reasonable cause. The applicant or licensee shall be deemed to have waived all objections to the admissibility of testimony by the provider of the examination and to the admissibility of examination reports on the grounds that the provider of the examination's testimony or the examination is confidential or privileged;

(5) Written notice of the order for an examination shall be sent to the applicant or licensee by registered mail, addressed to the licensee or applicant at the licensee's or applicant's last known address on file with the board, or shall be personally served on the applicant or licensee. The order shall state the cause for the examination, how to obtain information about approved facilities, and a time limit for obtaining the examination. The licensee or applicant shall cause a report of the examination to be sent to the board;

(6) The licensee or applicant shall sign all necessary releases for the board to obtain and use the examination during a hearing and to disclose the recommendations of the examination as part of a disciplinary order;

(7) After receiving the report of the examination ordered in subdivision (3) of this subsection, the board may hold a contested hearing to determine if by clear and convincing evidence the licensee or applicant is unable to practice with reasonable skill or safety to the public by reasons of medical or osteopathic incompetency, reason of mental or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances. If the board finds that the licensee or applicant is unable to practice with reasonable skill or safety to the public by reasons of medical or osteopathic incompetency, reason of mental or physical incapacity, or excessive use or abuse of controlled substances, the board shall, after a hearing, enter an order imposing one or more of the disciplinary measures set forth in subsection 4 of section 334.100; and

(8) The provisions of chapter 536 for a contested case, except those provisions or amendments which are in conflict with this section, shall apply to and govern the proceedings contained in this subsection and the rights and duties of the parties involved. The person appealing such an action shall be entitled to present evidence under chapter 536 relevant to the allegations.

2. Failure to submit to the examination when directed shall be cause for the revocation of the license of the licensee or denial of the application. No license may be reinstated or application granted until such time as the examination is completed and delivered to the board or the board withdraws its order.

3. Neither the record of proceedings nor the orders entered by the board shall be used against a licensee or applicant in any other proceeding, except for a proceeding in which the board or its members are a party or in a proceeding involving any state or federal agency.

4. A licensee or applicant whose right to practice has been affected under this section shall, at reasonable intervals not to exceed twelve months, be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession or should be granted a license. The board may hear such motion more often upon good cause shown.

5. The board shall promulgate rules and regulations to carry out the provisions of this section.

6. For purposes of this section, "examination" means a skills, multidisciplinary, or substance abuse evaluation.

334.100. DENIAL, REVOCATION OR SUSPENSION OF LICENSE, ALTERNATIVES, GROUNDS FOR — REINSTATEMENT PROVISIONS. — 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 the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621. 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 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) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense **[**an essential element of which is**] involving** 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) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by this chapter, including, but not limited to, the following:

(a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for visits to the physician's office which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

(b) Attempting, directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or discourage the use of a second opinion or consultation;

(c) Willfully and continually performing inappropriate or unnecessary treatment, diagnostic tests or medical or surgical services;

(d) Delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform such responsibilities;

(e) Misrepresenting that any disease, ailment or infirmity can be cured by a method, procedure, treatment, medicine or device;

(f) Performing or prescribing medical services which have been declared by board rule to be of no medical or osteopathic value;

(g) Final disciplinary action by any professional medical or osteopathic association or society or licensed hospital or medical staff of such hospital in this or any other state or territory, whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension,

limitation, or restriction of the person's license or staff or hospital privileges, failure to renew such privileges or license for cause, or other final disciplinary action, if the action was in any way related to unprofessional conduct, professional incompetence, malpractice or any other violation of any provision of this chapter;

(h) Signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination **including failing to establish a valid physician-patient relationship pursuant to section 334.108**, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, except as authorized in section 334.104;

(i) Exercising influence within a physician-patient relationship for purposes of engaging a patient in sexual activity;

(j) **Being listed on any state or federal sexual offender registry;**

(k) Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient;

[(k)**] (l)** Failing to furnish details of a patient's medical records to other treating physicians or hospitals upon proper request; or failing to comply with any other law relating to medical records;

[(l)**] (m)** Failure of any applicant or licensee**[**, other than the licensee subject to the investigation,**]** to cooperate with the board during any investigation;

[(m)**] (n)** Failure to comply with any subpoena or subpoena duces tecum from the board or an order of the board;

[(n)**] (o)** Failure to timely pay license renewal fees specified in this chapter;

[(o)**] (p)** Violating a probation agreement**, order, or other settlement agreement** with this board or any other licensing agency;

[(p)**] (q)** Failing to inform the board of the physician's current residence and business address;

[(q)**] (r)** Advertising by an applicant or licensee which is false or misleading, or which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by any other physician. An applicant or licensee shall also be in violation of this provision if the applicant or licensee has a financial interest in any organization, corporation or association which issues or conducts such advertising;

(s) Any other conduct that is unethical or unprofessional involving a minor;

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency, gross negligence or repeated negligence in the performance of the functions or duties of any profession licensed or regulated by this chapter. For the purposes of this subdivision, "repeated negligence" means the failure, on more than one occasion, to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession;

(6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of this chapter **or chapter 324**, or of any lawful rule or regulation adopted pursuant to this chapter **or chapter 324**;

(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) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing the license

to expire or lapse, or discontinuing or limiting the practice of medicine while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

(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 registered and currently eligible to practice pursuant to this chapter; or knowingly performing any act which in any way aids, assists, procures, advises, or encourages any person to practice medicine who is not registered and currently eligible to practice pursuant to this chapter. A physician who works in accordance with standing orders or protocols or in accordance with the provisions of section 334.104 shall not be in violation of this subdivision;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated pursuant to this chapter;

(13) Violation of the drug laws or rules and regulations of this state, **including but not limited to any provision of chapter 195,** any other state**,** or the federal government;

(14) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any birth, death or other certificate or document executed in connection with the practice of the person's profession;

(15) **Knowingly making a false statement, orally or in writing to the board;**

(16) Soliciting patronage in person or by agents or representatives, or by any other means or manner, under the person's own name or under the name of another person or concern, actual or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or necessity for or appropriateness of health care services for all patients, or the qualifications of an individual person or persons to diagnose, render, or perform health care services;

[(16)**] (17)** Using, or permitting the use of, the person's name under the designation of "Doctor", "Dr.", "M.D.", or "D.O.", or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise;

[(17)**] (18)** Knowingly making or causing to be made a false statement or misrepresentation of a material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208 or chapter 630 or for payment from Title XVIII or Title XIX of the federal Medicare program;

[(18)**] (19)** Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof; maintaining an unsanitary office or performing professional services under unsanitary conditions; or failure to report the existence of an unsanitary condition in the office of a physician or in any health care facility to the board, in writing, within thirty days after the discovery thereof;

[(19)**] (20)** Any candidate for licensure or person licensed to practice as a physical therapist, paying or offering to pay a referral fee or, notwithstanding section 334.010 to the contrary, practicing or offering to practice professional physical therapy independent of the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a dentist pursuant to chapter 332, as a podiatrist pursuant to chapter 330, as an advanced practice registered nurse under chapter 335, or any licensed and registered physician, dentist, podiatrist, or advanced practice registered nurse practicing in another jurisdiction, whose license is in good standing;

[(20)**] (21)** Any candidate for licensure or person licensed to practice as a physical therapist, treating or attempting to treat ailments or other health conditions of human beings other than by professional physical therapy and as authorized by sections 334.500 to 334.620;

[(21)**] (22)** Any person licensed to practice as a physician or surgeon, requiring, as a condition of the physician-patient relationship, that the patient receive prescribed drugs, devices

or other professional services directly from facilities of that physician's office or other entities under that physician's ownership or control. A physician shall provide the patient with a prescription which may be taken to the facility selected by the patient and a physician knowingly failing to disclose to a patient on a form approved by the advisory commission for professional physical therapists as established by section 334.625 which is dated and signed by a patient or guardian acknowledging that the patient or guardian has read and understands that the physician has a pecuniary interest in a physical therapy or rehabilitation service providing prescribed treatment and that the prescribed treatment is available on a competitive basis. This subdivision shall not apply to a referral by one physician to another physician within a group of physicians practicing together;

[(22)**] (23)** A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed or administered by another physician who is authorized by law to do so;

[(23)**] (24) Habitual intoxication or dependence on alcohol, evidence of which may include more than one alcohol-related enforcement contact as defined by section 302.525;**

(25) Failure to comply with a treatment program or an aftercare program entered into as part of a board order, settlement agreement or licensee's professional health program;

(26) Revocation, suspension, limitation**, probation,** or restriction of any kind whatsoever of any controlled substance authority, whether agreed to voluntarily or not**, or voluntary termination of a controlled substance authority while under investigation**;

[(24)**] (27)** For a physician to operate, conduct, manage, or establish an abortion facility, or for a physician to perform an abortion in an abortion facility, if such facility comes under the definition of an ambulatory surgical center pursuant to sections 197.200 to 197.240, and such facility has failed to obtain or renew a license as an ambulatory surgical center**[**;

(25) Being unable to practice as a physician and surgeon or with a specialty with reasonable skill and safety to patients by reasons of medical or osteopathic incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. The following shall apply to this subdivision:

(a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding of probable cause, require a physician to submit to a reexamination for the purpose of establishing his or her competency to practice as a physician or surgeon or with a specialty conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the pattern and practice of such physician's or surgeon's professional conduct, or to submit to a mental or physical examination or combination thereof by at least three physicians, one selected by the physician compelled to take the examination, one selected by the board, and one selected by the two physicians so selected who are graduates of a professional school approved and accredited as reputable by the association which has approved and accredited as reputable the professional school from which the licentiate graduated. However, if the physician is a graduate of a medical school not accredited by the American Medical Association or American Osteopathic Association, then each party shall choose any physician who is a graduate of a medical school accredited by the American Medical Association or the American Osteopathic Association;

(b) For the purpose of this subdivision, every physician licensed pursuant to this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physician's testimony or examination reports on the ground that the examining physician's testimony or examination is privileged;

(c) In addition to ordering a physical or mental examination to determine competency, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to a physician or applicant without the physician's or applicant's consent;

(d) Written notice of the reexamination or the physical or mental examination shall be sent to the physician, by registered mail, addressed to the physician at the physician's last known address. Failure of a physician to designate an examining physician to the board or failure to submit to the examination when directed shall constitute an admission of the allegations against the physician, in which case the board may enter a final order without the presentation of evidence, unless the failure was due to circumstances beyond the physician's control. A physician whose right to practice has been affected under this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that the physician can resume the competent practice as a physician and surgeon with reasonable skill and safety to patients;

(e) In any proceeding pursuant to this subdivision neither the record of proceedings nor the orders entered by the board shall be used against a physician in any other proceeding. Proceedings under this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(f) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the disciplinary measures set forth in subsection 4 of this section**]**.

3. Collaborative practice arrangements, protocols and standing orders shall be in writing and signed and dated by a physician prior to their implementation.

4. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. 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, warn, 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 ten years, or may suspend the person's license, certificate or permit for a period not to exceed three years, or restrict or limit the person's license, certificate or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.

5. In any order of revocation, the board may provide that the person may not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

6. Before restoring to good standing a license, certificate or permit issued pursuant to this chapter which has been in a revoked, suspended or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing medical education courses and pass such examinations as the board may direct.

7. In any investigation, hearing or other proceeding to determine a licensee's or applicant's fitness to practice, any record relating to any patient of the licensee or applicant shall be discoverable by the board and admissible into evidence, regardless of any statutory or common law privilege which such licensee, applicant, record custodian or patient might otherwise invoke. In addition, no such licensee, applicant, or record custodian may withhold records or testimony bearing upon a licensee's or applicant's fitness to practice on the ground of privilege between such licensee, applicant or record custodian and a patient.

334.102. EMERGENCY SUSPENSION OR RESTRICTION, WHEN, PROCEDURE — REMOVAL FROM RECORD, WHEN — DISCIPLINARY PROCEEDINGS PERMITTED, WHEN — JUDICIAL REVIEW, WHEN. — 1. **[**Upon receipt of information that the holder of any certificate of registration or authority, permit or license issued pursuant to this chapter may present a clear and present danger to the public health and safety, the executive secretary or director shall direct that

the information be brought to the board in the form of sworn testimony or affidavits during a meeting of the board.

2. The board may issue an order suspending and/or restricting the holder of a certificate of registration or authority, permit or license if it believes:

(1) The licensee's acts, conduct or condition may have violated subsection 2 of section 334.100; and

(2) A licensee is practicing, attempting or intending to practice in Missouri; and

(3) Either a licensee is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to the extent that the licensee's condition or actions significantly affect the licensee's ability to practice, or another state, territory, federal agency or country has issued an order suspending or restricting the holder of a license or other right to practice a profession regulated by this chapter, or the licensee has engaged in repeated acts of life-threatening negligence as defined in subsection 2 of section 334.100; and

(4) The acts, conduct or condition of the licensee constitute a clear and present danger to the public health and safety.

3. (1) The order of suspension or restriction:

(a) Shall be based on the sworn testimony or affidavits presented to the board;

(b) May be issued without notice and hearing to the licensee;

(c) Shall include the facts which lead the board to conclude that the acts, conduct or condition of the licensee constitute a clear and present danger to the public health and safety; and

(2) The board or the administrative hearing commission shall serve the licensee, in person or by certified mail, with a copy of the order of suspension or restriction and all sworn testimony or affidavits presented to the board, a copy of the complaint and the request for expedited hearing, and a notice of the place of and the date upon which the preliminary hearing will be held.

(3) The order of restriction shall be effective upon service of the documents required in subdivision (2) of this subsection.

(4) The order of suspension shall become effective upon the entry of the preliminary order of the administrative hearing commission.

(5) The licensee may seek a stay order from the circuit court of Cole County from the preliminary order of suspension, pending the issuance of a final order by the administrative hearing commission.

4. The board shall file a complaint in the administrative hearing commission with a request for expedited preliminary hearing and shall certify the order of suspension or restriction and all sworn testimony or affidavits presented to the board. Immediately upon receipt of a complaint filed pursuant to this section, the administrative hearing commission shall set the place and date of the expedited preliminary hearing which shall be conducted as soon as possible, but not later than five days after the date of service upon the licensee. The administrative hearing commission shall grant a licensee's request for a continuance of the preliminary hearing; however, the board's order shall remain in full force and effect until the preliminary hearing, which shall be held not later than forty-five days after service of the documents required in subdivision (2) of subsection 3.

5. At the preliminary hearing, the administrative hearing commission shall receive into evidence all information certified by the board and shall only hear evidence on the issue of whether the board's order of suspension or restriction should be terminated or modified. Within one hour after the preliminary hearing, the administrative hearing commission shall issue its oral or written preliminary order, with or without findings of fact and conclusions of law, that either adopts, terminates or modifies the board's order. The administrative hearing commission shall reduce to writing any oral preliminary order within five business days, but the effective date of the order shall be the date orally issued.

6. The preliminary order of the administrative hearing commission shall become a final order and shall remain in effect for three years unless either party files a request for a full hearing

on the merits of the complaint filed by the board within thirty days from the date of the issuance of the preliminary order of the administrative hearing commission.

7. Upon receipt of a request for full hearing, the administrative hearing commission shall set a date for hearing and notify the parties in writing of the time and place of the hearing. If a request for full hearing is timely filed, the preliminary order of the administrative hearing commission shall remain in effect until the administrative hearing commission enters an order terminating, modifying, or dismissing its preliminary order or until the board issues an order of discipline following its consideration of the decision of the administrative hearing commission pursuant to section 621.110 and subsection 3 of section 334.100.

8. In cases where the board initiates summary suspension or restriction proceedings against a physician licensed pursuant to this chapter, and said petition is subsequently denied by the administrative hearing commission, in addition to any award made pursuant to sections 536.085 and 536.087, the board, but not individual members of the board, shall pay actual damages incurred during any period of suspension or restriction.

9. Notwithstanding the provisions of this chapter or chapter 610 or chapter 621 to the contrary, the proceedings under this section shall be closed and no order shall be made public until it is final, for purposes of appeal.

10. The burden of proving the elements listed in subsection 2 of this section shall be upon the state board of registration for the healing arts.**] The board may apply to the administrative hearing commission for an emergency suspension or restriction of a licensee for the following causes:**

(1) Engaging in sexual conduct, as defined in section 566.010, with a patient who is not the licensee's spouse, regardless of whether the patient consented;

(2) Engaging in sexual misconduct with a minor or person the licensee believes to be a minor. "Sexual misconduct" means any conduct of a sexual nature which would be illegal under state or federal law;

(3) Possession of a controlled substance in violation of chapter 195 or any state or federal law, rule, or regulation, excluding record keeping violations;

(4) Use of a controlled substance without a valid prescription;

(5) The licensee is adjudicated incapacitated or disabled by a court of competent jurisdiction;

(6) Habitual intoxication or dependence upon alcohol or controlled substances or failure to comply with a treatment or aftercare program entered into pursuant to a board order, settlement agreement, or as part of the licensee's professional health program;

(7) A report from a board approved facility or a professional health program stating the licensee is not fit to practice. For purposes of this section, a licensee is deemed to have waived all objections to the admissibility of testimony from the provider of the examination and admissibility of the examination reports. The licensee shall sign all necessary releases for the board to obtain and use the examination during a hearing; or

(8) Any conduct for which the board may discipline that constitutes a serious danger to the health, safety, or welfare of a patient or the public.

2. The board shall submit existing affidavits and existing certified court records together with a complaint alleging the facts in support of the board's request for an emergency suspension or restriction to the administrative hearing commission and shall supply the administrative hearing commission with the last home or business addresses on file with the board for the licensee. Within one business day of the filing of the complaint, the administrative hearing commission shall return a service packet to the board. The service packet shall include the board's complaint and any affidavits or records the board intends to rely on that have been filed with the administrative hearing commission. The service packet may contain other information in the discretion of the administrative hearing commission. Within twenty-four hours of receiving the packet, the board shall either personally serve the licensee or leave a copy of the service packet at all

of the licensee's current addresses on file with the board. Prior to the hearing, the licensee may file affidavits and certified court records for consideration by the administrative hearing commission.

3. Within five days of the board's filing of the complaint, the administrative hearing commission shall review the information submitted by the board and the licensee and shall determine based on that information if probable cause exists pursuant to subsection 1 of this section and shall issue its findings of fact and conclusions of law. If the administrative hearing commission finds that there is probable cause, the administrative hearing commission shall enter the order requested by the board. The order shall be effective upon personal service or by leaving a copy at all of the licensee's current addresses on file with the board.

4. The administrative hearing commission shall hold a hearing within forty-five days of the board's filing of the complaint to determine if cause for discipline exists. The administrative hearing commission may grant a request for a continuance, but shall in any event, hold the hearing within one hundred twenty days of the board's initial filing. The board shall be granted leave to amend its complaint if it is more than thirty days prior to the hearing. If less than thirty days, the board may be granted leave to amend if public safety requires.

(1) If no cause for discipline exists, the administrative hearing commission shall issue findings of fact, conclusions of law, and an order terminating the emergency suspension or restriction.

(2) If cause for discipline exists, the administrative hearing commission shall issue findings of fact and conclusions of law and order the emergency suspension or restriction to remain in full force and effect pending a disciplinary hearing before the board. The board shall hold a hearing following the certification of the record by the administrative hearing commission and may impose any discipline otherwise authorized by state law.

6. Any action under this section shall be in addition to and not in lieu of any discipline otherwise in the board's power to impose and may be brought concurrently with other actions.

7. If the administrative hearing commission does not find probable cause and does not grant the emergency suspension or restriction, the board shall remove all reference to such emergency suspension or restriction from its public records. Records relating to the suspension or restriction shall be maintained in the board's files. The board or licensee may use such records in the course of any litigation to which they are both parties. Additionally, such records may be released upon a specific, written request of the licensee.

8. (1) The board may initiate a hearing before the board, for discipline of any licensee's license or certificate upon receipt of one of the following:

(a) Certified court records of a finding of guilt or plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or of the United States for any offense involving the qualifications, functions, or duties of any profession licensed or regulated under this chapter, for any offense involving fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(b) Evidence of final disciplinary action against the licensee's license, certification or registration issued by any other state, by any other agency or entity of this state or any other state or the United States or its territories, or any other country;

(c) Evidence of certified court records finding the licensee has been judged incapacitated or disabled under Missouri law or under the laws of any other state or of the United States or its territories.

(2) The board shall provide the licensee not less than ten days notice of any hearing held pursuant to chapter 536.

(3) Upon a finding that cause exists to discipline a licensee's license the board may impose any discipline otherwise available when disciplining licensees of that same profession.

9. A final decision of the administrative hearing commission or the board shall be subject to judicial review pursuant to chapter 536.

334.103. AUTOMATIC REVOCATION OR REINSTATEMENT OF LICENSE, GROUNDS. — 1. A license issued under this chapter by the Missouri State Board of Registration for the Healing Arts shall be automatically revoked at such time as the final trial proceedings are concluded whereby a licensee has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony criminal prosecution under the laws of the state of Missouri, the laws of any other state, or the laws of the United States of America for any offense reasonably related to the qualifications, functions or duties of their profession, or for any felony offense**[**, an essential element of which is**] involving** fraud, dishonesty or an act of violence, or for any felony offense involving moral turpitude, whether or not sentence is imposed, or, upon the final and unconditional revocation of the license to practice their profession in another state or territory upon grounds for which revocation is authorized in this state following a review of the record of the proceedings and upon a formal motion of the state board of registration for the healing arts. The license of any such licensee shall be automatically reinstated if the conviction or the revocation is ultimately set aside upon final appeal in any court of competent jurisdiction.

2. Anyone who has been denied a license, permit or certificate to practice in another state shall automatically be denied a license to practice in this state. However, the board of healing arts may set up other qualifications by which such person may ultimately be qualified and licensed to practice in Missouri.

334.108. INTERNET PRESCRIPTIONS AND TREATMENT, ESTABLISHMENT OF PHYSICIAN-PATIENT RELATIONSHIP REQUIRED. — 1. Prior to prescribing any drug, controlled substance, or other treatment through the internet, a physician shall establish a valid physician-patient relationship. This relationship shall include:

(1) Obtaining a reliable medical history and performing a physical examination of the patient, adequate to establish the diagnosis for which the drug is being prescribed and to identify underlying conditions or contraindications to the treatment recommended or provided;

(2) Having sufficient dialogue with the patient regarding treatment options and the risks and benefits of treatment or treatments;

(3) If appropriate, following up with the patient to assess the therapeutic outcome;

(4) Maintaining a contemporaneous medical record that is readily available to the patient and, subject to the patient's consent, to the patient's other health care professionals; and

(5) Including the electronic prescription information as part of the patient's medical record.

2. The requirements of subsection 1 of this section may be satisfied by the prescribing physician's designee when treatment is provided in:

(1) A hospital as defined in section 197.020;

(2) A hospice program as defined in section 197.250;

(3) Home health services provided by a home health agency as defined in section 197.400;

(4) Accordance with a collaborative practice agreement as defined in section 334.104;

(5) Conjunction with a physician assistant licensed pursuant to section 334.738;

(6) Consultation with another physician who has an ongoing physician-patient relationship with the patient, and who has agreed to supervise the patient's treatment, including use of any prescribed medications; or

(7) On-call or cross-coverage situations.

334.715. REFUSAL TO ISSUE OR RENEW LICENSE, GROUNDS, ALTERNATIVES — COMPLAINT PROCEDURE — REINSTATEMENT, PROCEDURE. — 1. The board may refuse to **issue or renew any** license **[**any applicant or may suspend, revoke, or refuse to renew the license of any licensee for any one or any combination of the causes provided in section 334.100, or if the applicant or licensee**] required under sections 334.700 to 334.725 for one or any combination of causes listed in subsection 2 of this section or any cause listed in section 334.100. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided in chapter 621. As an alternative to a refusal to issue or renew any certificate, registration, or authority, the board may, in its discretion, issue a license which is subject to reprimand, probation, restriction, or limitation to an applicant for licensure for any one or any combination of causes listed in subsection 2 of this section or section 334.100. The board's order of reprimand, 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 waived.**

2. The board may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621 against any holder of a certificate of registration or authority, permit, or license required by sections 334.700 to 334.725 or any person who has failed to renew or has surrendered the person's certification of registration or license for any one or any combination of the following causes:

(1) Violated or conspired to violate any provision of sections 334.700 to 334.725 or any provision of any rule promulgated pursuant to sections 334.700 to 334.725; or

(2) Has been found guilty of unethical conduct as defined in the ethical standards of the National Athletic Trainers Association or the National Athletic Trainers Association Board of Certification, or its successor agency, as adopted and published by the committee and the board and filed with the secretary of state**; or**

(3) Any cause listed in section 334.100.

[2. Upon receipt of a written application made in the form and manner prescribed by the board, the board may reinstate any license which has expired, been suspended or been revoked or may issue any license which has been denied; provided, that no application for reinstatement or issuance of license or licensure shall be considered until at least six months have elapsed from the date of denial, expiration, suspension, or revocation when the license to be reinstated or issued was denied issuance or renewal or was suspended or revoked for one of the causes listed in subsection 1 of this section.**]**

3. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. 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:

(1) Warn, 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 ten years; or

(2) Suspend the person's license, certificate, or permit for a period not to exceed three years; or

(3) Administer a public or private reprimand; or

(4) Deny the person's application for a license; or

(5) Permanently withhold issuance of a license or require the person to submit to the care, counseling, or treatment of physicians designated by the board at the expense of the individual to be examined; or

(6) Require the person to attend such continuing education courses and pass such examinations as the board may direct.

4. In any order of revocation, the board may provide that the person shall not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll such time period.

5. Before restoring to good standing a license, certificate, or permit issued under this chapter which has been in a revoked, suspended, or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing education courses and pass such examinations as the board may direct.

436.405. DEFINITIONS. — 1. As used in sections 436.400 to 436.520, unless the context otherwise requires, the following terms shall mean:

(1) "Beneficiary", the individual who is to be the subject of the disposition or who will receive funeral services, facilities, or merchandise described in a preneed contract;

(2) **"Board", the board of embalmers and funeral directors;**

(3) "Guaranteed contract", a preneed contract in which the seller promises, assures, or guarantees to the purchaser that all or any portion of the costs for the disposition, services, facilities, or merchandise identified in a preneed contract will be no greater than the amount designated in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited or restricted;

[(3)**] (4)** "Insurance-funded preneed contract", a preneed contract which is designated to be funded by payments or proceeds from an insurance policy or **[**single premium**] a deferred** annuity contract **that is not classified as a variable annuity and has death benefit proceeds that are never less than the sum of premiums paid**;

[(4)**] (5)** "Joint account-funded preneed contract", a preneed contract which designates that payments for the preneed contract made by or on behalf of the purchaser will be deposited and maintained in a joint account in the names of the purchaser and seller, as provided in this chapter;

[(5)**] (6)** "Market value", a fair market value:

(a) As to cash, the amount thereof;

(b) As to a security as of any date, the price for the security as of that date obtained from a generally recognized source, or to the extent no generally recognized source exists, the price to sell the security in an orderly transaction between unrelated market participants at the measurement date; and

(c) As to any other asset, the price to sell the asset in an orderly transaction between unrelated market participants at the measurement date consistent with statements of financial accounting standards;

[(6)**] (7)** "Nonguaranteed contract", a preneed contract in which the seller does not promise, assure, or guarantee that all or any portion of the costs for the disposition, facilities, service, or merchandise identified in a preneed contract will be limited to the amount designated in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited or restricted;

[(7)**] (8)** "Preneed contract", any contract or other arrangement which provides for the final disposition in Missouri of a dead human body, funeral or burial services or facilities, or funeral merchandise, where such disposition, services, facilities, or merchandise are not immediately

required. Such contracts include, but are not limited to, agreements providing for a membership fee or any other fee for the purpose of furnishing final disposition, funeral or burial services or facilities, or funeral merchandise at a discount or at a future date;

[(8)**] (9)** "Preneed trust", a trust to receive deposits of, administer, and disburse payments received under preneed contracts, together with income thereon;

[(9)**] (10)** "Purchaser", the person who is obligated to pay under a preneed contract;

[(10)**] (11)** "Trustee", the trustee of a preneed trust, including successor trustees;

[(11)**] (12)** "Trust-funded preneed contract", a preneed contract which provides that payments for the preneed contract shall be deposited and maintained in trust.

2. All terms defined in chapter 333 shall be deemed to have the same meaning when used in sections 436.400 to 436.520.

436.412. VIOLATIONS, DISCIPLINARY ACTIONS AUTHORIZED — GOVERNING LAW FOR CONTRACTS. — Each preneed contract made before August 28, 2009, and all payments and disbursements under such contract shall continue to be governed by this chapter as the chapter existed at the time the contract was made. Any licensee or registrant of the board may be disciplined for violation of any provision of sections 436.005 to 436.071 within the applicable statute of limitations. **[**In addition, the provisions of section 436.031, as it existed on August 27, 2009, shall continue to govern disbursements to the seller from the trust and payment of trust expenses.**]** Joint accounts in existence as of August 27, 2009, shall continue to be governed by the provisions of section 436.053, as that section existed on August 27, 2009.

436.445. TRUSTEE NOT TO MAKE DECISIONS, WHEN. — A trustee of any preneed trust, including trusts established before August 28, 2009, shall not after August 28, 2009, make any decisions to invest any trust fund with:

(1) The spouse of the trustee;

(2) The descendants, siblings, parents, or spouses of a seller or an officer, manager, director or employee of a seller, provider, or preneed agent;

(3) Agents**, other than authorized external investment advisors as authorized by section 436.440,** or attorneys of a trustee, seller, or provider; or

(4) A corporation or other person or enterprise in which the trustee, seller, or provider owns a controlling interest or has an interest that might affect the trustee's judgment.

436.450. INSURANCE-FUNDED PRENEED CONTRACT REQUIREMENTS. — 1. An insurance-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller, provider, or any preneed agent shall not receive or collect from the purchaser of an insurance-funded preneed contract any amount in excess of what is required to pay the premiums on the insurance policy as assessed or required by the insurer as premium payments for the insurance policy except for any amount required or authorized by this chapter or by rule. A seller shall not receive or collect any administrative or other fee from the purchaser for or in connection with an insurance-funded preneed contract, other than those fees or amounts assessed by the insurer. As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan for any purpose other than as authorized by this chapter.

3. Payments collected by or on behalf of a seller for an insurance-funded preneed contract shall be promptly remitted to the insurer or the insurer's designee as required by the insurer; provided that payments shall not be retained or held by the seller or preneed agent for more than thirty days from the date of receipt.

4. It is unlawful for a seller, provider, or preneed agent to procure or accept a loan against any insurance contract used to fund a preneed contract.

5. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance or **[**single premium**]** annuity sold with a preneed contract; provided, however, the provisions of **[**this act**] sections 436.400 to 436.520** shall not apply to **[**single premium**]** annuities or insurance polices regulated by chapters 374, 375, and 376 used to fund preneed funeral agreements, contracts, or programs.

6. This section shall apply to all preneed contracts including those entered into before August 28, 2009.

7. For any insurance-funded preneed contract sold after August 28, 2009, the following shall apply:

(1) The purchaser or beneficiary shall be the owner of the insurance policy purchased to fund a preneed contract; and

(2) An insurance-funded preneed contract shall be valid and enforceable only if the seller or provider is named as the beneficiary or assignee of the life insurance policy funding the contract.

8. If the proceeds of the life insurance policy exceed the actual cost of the goods and services provided pursuant to the nonguaranteed preneed contract, any overage shall be paid to the estate of the beneficiary, or, if the beneficiary received public assistance, to the state of Missouri.

436.455. JOINT ACCOUNT-FUNDED PRENEED CONTRACT REQUIREMENTS. — 1. A joint account-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. In lieu of a trust-funded or insurance-funded preneed contract, the seller and the purchaser may agree in writing that all funds paid by the purchaser or beneficiary for the preneed contract shall be deposited with a financial institution chartered and regulated by the federal or state government authorized to do business in Missouri in an account in the joint names and under the joint control of the seller and purchaser, beneficiary or party holding power of attorney over the beneficiary's estate**, or in an account titled in the beneficiary's name and payable on the beneficiary's death to the seller**. There shall be a separate joint account established for each preneed contract sold or arranged under this section. Funds shall only be withdrawn or paid from the account upon the signatures of both the seller and the purchaser or under a pay-on-death designation or as required to pay reasonable expenses of administering the account.

3. All consideration paid by the purchaser under a joint account-funded contract shall be deposited into a joint account as authorized by this section within ten days of receipt of payment by the seller.

4. The financial institution shall hold, invest, and reinvest funds deposited under this section in other accounts offered to depositors by the financial institutions as provided in the written agreement of the purchaser and the seller, provided the financial institution shall not invest or reinvest any funds deposited under this section in term life insurance or any investment that does not reasonably have the potential to gain income or increase in value.

5. Income generated by preneed funds deposited under this section shall be used to pay the reasonable expenses of administering the account as charged by the financial institution and the balance of the income shall be distributed or reinvested upon fulfillment of the contract, cancellation or transfer pursuant to the provisions of this chapter.

6. Within fifteen days after a provider **[**and a witness certify to the financial institution in writing**] delivers a copy of a certificate of performance to the seller, signed by the provider and the person authorized to make arrangements on behalf of the beneficiary, certifying** that the provider has furnished the final disposition, funeral, and burial services and facilities, and merchandise as required by the preneed contract, or has provided alternative funeral benefits for the beneficiary under special arrangements made with the purchaser, the **[**financial institution shall distribute the deposited funds to the seller if the certification has been approved by the purchaser**] seller shall take whatever steps are required by the financial institution to**

secure payment of the funds from the financial institution. The seller shall pay the provider within ten days of receipt of funds.

7. Any seller, provider, or preneed agent shall not procure or accept a loan against any investment, or asset of, or belonging to a joint account. As of August 28, 2009, it shall be prohibited to use any existing preneed contract as collateral or security pledged for a loan, or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

436.456. CANCELLATION OF CONTRACT, WHEN, PROCEDURE. — At any time before final disposition, or before the funeral or burial services, facilities, or merchandise described in a preneed contract are furnished, the purchaser may cancel the contract, if designated as revocable, without cause. In order to cancel the contract the purchaser shall:

(1) In the case of a joint account-funded preneed contract, deliver written notice of the cancellation to the seller **[**and the financial institution**]**. Within fifteen days of receipt of notice of the cancellation, the **[**financial institution shall distribute all deposited funds to the purchaser**] seller shall take whatever steps may be required by the financial institution to obtain the funds from the financial institution. Upon receipt of the funds from the financial institution, the seller shall distribute the principal to the purchaser**. Interest shall be distributed as provided in the agreement with the seller and purchaser;

(2) In the case of an insurance-funded preneed contract, deliver written notice of the cancellation to the seller. Within fifteen days of receipt of notice of the cancellation, the seller shall notify the purchaser that the cancellation of the contract shall not cancel any life insurance funding the contract and that insurance cancellation is required to be made in writing to the insurer;

(3) In the case of a trust-funded preneed contract, deliver written notice of the cancellation to the seller and trustee. Within fifteen days of receipt of notice of the cancellation, the trustee shall distribute one hundred percent of the trust property including any percentage of the total payments received on the trust-funded contract that have been withdrawn from the account under subsection 4 of section 436.430 but excluding the income, to the purchaser of the contract;

(4) In the case of a guaranteed installment payment contract where the beneficiary dies before all installments have been paid, the purchaser shall pay the seller the amount remaining due under the contract in order to receive the goods and services set out in the contract, otherwise the purchaser or their estate will receive full credit for all payments the purchaser has made towards the cost of the beneficiary's funeral at the provider current prices.

536.063. CONTESTED CASE, HOW INSTITUTED — PLEADINGS — COPIES SENT PARTIES. — In any contested case:

(1) The contested case shall be commenced by the filing of a writing by which the party or agency instituting the proceeding seeks such action as by law can be taken by the agency only after opportunity for hearing, or seeks a hearing for the purpose of obtaining a decision reviewable upon the record of the proceedings and evidence at such hearing, or upon such record and additional evidence, either by a court or by another agency. Answering, intervening and amendatory writings and motions may be filed in any case and shall be filed where required by rule of the agency, except that no answering instrument shall be required unless the notice of institution of the case states such requirement. Entries of appearance shall be permitted**[.] ;**

(2) Any writing filed whereby affirmative relief is sought shall state what relief is sought or proposed and the reason for granting it, and shall not consist merely of statements or charges phrased in the language of a statute or rule; provided, however, that this subdivision shall not apply when the writing is a notice of appeal as authorized by law**[.] ;**

(3) Reasonable opportunity shall be given for the preparation and presentation of evidence bearing on any issue raised or decided or relief sought or granted. Where issues are tried without

objection or by consent, such issues shall be deemed to have been properly before the agency. Any formality of procedure may be waived by mutual consent**[.] ;**

(4) Every writing seeking relief or answering any other writing, and any motion shall state the name and address of the attorney, if any, filing it; otherwise the name and address of the party filing it**[.] ;**

(5) By rule the agency may require any party filing such a writing to furnish, in addition to the original of such writing, the number of copies required for the agency's own use and the number of copies necessary to enable the agency to comply with the provisions of this subdivision hereinafter set forth. The agency shall, without charge therefor, mail one copy of each such writing, as promptly as possible after it is filed, to every party or his **or her** attorney who has filed a writing or who has entered his **or her** appearance in the case, and who has not theretofore been furnished with a copy of such writing and shall have requested copies of the writings; provided that in any case where the parties are so numerous that the requirements of this subdivision would be unduly onerous, the agency may in lieu thereof (a) notify all parties of the fact of the filing of such writing, and (b) permit any party to copy such writing**[.] ;**

(6) When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under section 536.067 upon a properly pled writing filed to initiate the contested case under this chapter, a default decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.

536.067. NOTICE IN CONTESTED CASE — MAILING — CONTENTS — NOTICE OF HEARING — TIME FOR. — In any contested case:

(1) The agency shall promptly mail a notice of institution of the case to all necessary parties, if any, and to all persons designated by the moving party and to any other persons to whom the agency may determine that notice should be given. The agency or its clerk or secretary shall keep a permanent record of the persons to whom such notice was sent and of the addresses to which sent and the time when sent. Where a contested case would affect the rights, privileges or duties of a large number of persons whose interests are sufficiently similar that they may be considered as a class, notice may in a proper case be given to a reasonable number thereof as representatives of such class. In any case where the name or address of any proper or designated party or person is not known to the agency, and where notice by publication is permitted by law, then notice by publication may be given in accordance with any rule or regulation of the agency or if there is no such rule or regulation, then, in a proper case, the agency may by a special order fix the time and manner of such publication**[.] ;**

(2) The notice of institution of the case to be mailed as provided in this section shall state in substance:

(a) The caption and number of the case;

(b) That a writing seeking relief has been filed in such case, the date it was filed, and the name of the party filing the same;

(c) A brief statement of the matter involved in the case unless a copy of the writing accompanies said notice;

(d) Whether an answer to the writing is required, and if so the date when it must be filed;

(e) That a copy of the writing may be obtained from the agency, giving the address to which application for such a copy may be made. This may be omitted if the notice is accompanied by a copy of such writing;

(f) The location in the Code of State Regulations of any rules of the agency regarding discovery or a statement that the agency shall send a copy of such rules on request;

(3) Unless the notice of hearing hereinafter provided for shall have been included in the notice of institution of the case, the agency shall, as promptly as possible after the time and place of hearing have been determined, mail a notice of hearing to the moving party and to all persons and parties to whom a notice of institution of the case was required to be or was mailed, and also to any other persons who may thereafter have become or have been made parties to the proceeding. The notice of hearing shall state:

(a) The caption and number of the case;

(b) The time and place of hearing;

(4) No hearing in a contested case shall be had, except by consent, until a notice of hearing shall have been given substantially as provided in this section, and such notice shall in every case be given a reasonable time before the hearing. Such reasonable time shall be at least ten days except in cases where the public morals, health, safety or interest may make a shorter time reasonable; provided that when a longer time than ten days is prescribed by statute, no time shorter than that so prescribed shall be deemed reasonable**;**

(5) When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under this section upon a properly pled writing filed to initiate the contested case under this chapter, a default decision shall be entered against the holder of a license, registration, permit, or certificate of authority without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.

536.070. EVIDENCE — WITNESSES — OBJECTIONS — JUDICIAL NOTICE — AFFIDAVITS AS EVIDENCE — TRANSCRIPT. — In any contested case:

(1) Oral evidence shall be taken only on oath or affirmation**[.] ;**

(2) Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not the subject of the direct examination, to impeach any witness regardless of which party first called him **or her** to testify, and to rebut the evidence against him**[.] or her;**

(3) A party who does not testify in his **or her** own behalf may be called and examined as if under cross-examination**[.] ;**

(4) Each agency shall cause all proceedings in hearings before it to be suitably recorded and preserved. A copy of the transcript of such a proceeding shall be made available to any interested person upon the payment of a fee which shall in no case exceed the reasonable cost of preparation and supply**[.] ;**

(5) Records and documents of the agency which are to be considered in the case shall be offered in evidence so as to become a part of the record, the same as any other evidence, but the records and documents may be considered as a part of the record by reference thereto when so offered**[.] ;**

(6) Agencies shall take official notice of all matters of which the courts take judicial notice. They may also take official notice of technical or scientific facts, not judicially cognizable, within their competence, if they notify the parties, either during a hearing or in writing before a hearing, or before findings are made after hearing, of the facts of which they propose to take such notice and give the parties reasonable opportunity to contest such facts or otherwise show that it would not be proper for the agency to take such notice of them**[.] ;**

(7) Evidence to which an objection is sustained shall, at the request of the party seeking to introduce the same, or at the instance of the agency, nevertheless be heard and preserved in the record, together with any cross-examination with respect thereto and any rebuttal thereof, unless it is wholly irrelevant, repetitious, privileged, or unduly long**[.] ;**

(8) Any evidence received without objection which has probative value shall be considered by the agency along with the other evidence in the case. The rules of privilege shall be effective to the same extent that they are now or may hereafter be in civil actions. Irrelevant and unduly repetitious evidence shall be excluded**[.] ;**

(9) Copies of writings, documents and records shall be admissible without proof that the originals thereof cannot be produced, if it shall appear by testimony or otherwise that the copy offered is a true copy of the original, but the agency may, nevertheless, if it believes the interests of justice so require, sustain any objection to such evidence which would be sustained were the proffered evidence offered in a civil action in the circuit court, but if it does sustain such an objection, it shall give the party offering such evidence reasonable opportunity and, if necessary, opportunity at a later date, to establish by evidence the facts sought to be proved by the evidence to which such objection is sustained**[.] ;**

(10) Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of an act, transaction, occurrence or event, shall be admissible as evidence of the act, transaction, occurrence or event, if it shall appear that it was made in the regular course of any business, and that it was the regular course of such business to make such memorandum or record at the time of such act, transaction, occurrence, or event or within a reasonable time thereafter. All other circumstances of the making of such writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect the weight of such evidence, but such showing shall not affect its admissibility. The term "business" shall include business, profession, occupation and calling of every kind**[.] ;**

(11) The results of statistical examinations or studies, or of audits, compilations of figures, or surveys, involving interviews with many persons, or examination of many records, or of long or complicated accounts, or of a large number of figures, or involving the ascertainment of many related facts, shall be admissible as evidence of such results, if it shall appear that such examination, study, audit, compilation of figures, or survey was made by or under the supervision of a witness, who is present at the hearing, who testifies to the accuracy of such results, and who is subject to cross-examination, and if it shall further appear by evidence adduced that the witness making or under whose supervision such examination, study, audit, compilation of figures, or survey was made was basically qualified to make it. All the circumstances relating to the making of such an examination, study, audit, compilation of figures or survey, including the nature and extent of the qualifications of the maker, may be shown to affect the weight of such evidence but such showing shall not affect its admissibility**[.] ;**

(12) Any party or the agency desiring to introduce an affidavit in evidence at a hearing in a contested case may serve on all other parties (including, in a proper case, the agency) copies of such affidavit in the manner hereinafter provided, at any time before the hearing, or at such later time as may be stipulated. Not later than seven days after such service, or at such later time as may be stipulated, any other party (or, in a proper case, the agency) may serve on the party or the agency who served such affidavit an objection to the use of the affidavit or some designated portion or portions thereof on the ground that it is in the form of an affidavit; provided, however, that if such affidavit shall have been served less than eight days before the hearing such objection may be served at any time before the hearing or may be made orally at

the hearing. If such objection is so served, the affidavit or the part thereof to which objection was made, may not be used except in ways that would have been permissible in the absence of this subdivision; provided, however, that such objection may be waived by the party or the agency making the same. Failure to serve an objection as aforesaid, based on the ground aforesaid, shall constitute a waiver of all objections to the introduction of such affidavit, or of the parts thereof with respect to which no such objection was so served, on the ground that it is in the form of an affidavit, or that it constitutes or contains hearsay evidence, or that it is not, or contains matters which are not, the best evidence, but any and all other objections may be made at the hearing. Nothing herein contained shall prevent the cross-examination of the affiant if he **or she** is present in obedience to a subpoena or otherwise and if he **or she** is present, he **or she** may be called for cross-examination during the case of the party who introduced the affidavit in evidence. If the affidavit is admissible in part only it shall be admitted as to such part, without the necessity of preparing a new affidavit. The manner of service of such affidavit and of such objection shall be by delivering or mailing copies thereof to the attorneys of record of the parties being served, if any, otherwise, to such parties, and service shall be deemed complete upon mailing; provided, however, that when the parties are so numerous as to make service of copies of the affidavit on all of them unduly onerous, the agency may make an order specifying on what parties service of copies of such affidavit shall be made, and in that case a copy of such affidavit shall be filed with the agency and kept available for inspection and copying. Nothing in this subdivision shall prevent any use of affidavits that would be proper in the absence of this subdivision.

621.045. COMMISSION TO CONDUCT HEARINGS, MAKE DETERMINATIONS — BOARDS INCLUDED — SETTLEMENT AGREEMENTS, DEFAULT DECISION, WHEN. — 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 **or her** 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 for Architects, Professional Engineers, 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, Financial Institutions and Professional Registration

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.

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 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.

5. If the licensee desires review by the administrative hearing commission under subdivision (3) of subsection 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.

6. When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under sections 536.067 and 621.100 upon a properly pled writing filed to initiate the contested case under this chapter or chapter 536, a default decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.

621.100. COMPLAINTS — NOTICE — AGENCY MAY RETAIN COUNSEL — DEFAULT DECISION, WHEN — AFFIDAVIT REGARDING LICENSEE'S STATUS, PROCEDURE. — 1. Upon receipt of a written complaint from an agency named in section 621.045 in a case relating to a holder of a license granted by such agency, or upon receipt of such complaint from the attorney

general, the administrative hearing commission shall cause a copy of said complaint to be served upon such licensee in person**, or by leaving a copy of the complaint at the licensee's dwelling house or usual place of abode or last address given to the agency by the licensee with some person residing or present therein over the age of fifteen,** or by certified mail, together with a notice of the place of and the date upon which the hearing on said complaint will be held. If service cannot be accomplished **[**in person or by certified mail**] as described in this section**, notice by publication as described in subsection 3 of section 506.160 shall be allowed; any commissioner is authorized to act as a court or judge would in that section, and any employee of the commission is authorized to act as a clerk would in that section. In any case initiated upon complaint of the attorney general, the agency which issued the license shall be given notice of such complaint and the date upon which the hearing will be held by delivery of a copy of such complaint and notice to the office of such agency or by certified mail. Such agency may intervene and may retain the services of legal counsel to represent it in such case.

2. **When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under this section and section 536.067 upon a properly pled writing filed to initiate the contested case under this chapter or chapter 536, a default decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.**

3. In any case initiated under this section, the custodian of the records of an agency may prepare a sworn affidavit stating truthfully pertinent information regarding the license status of the licensee charged in the complaint, including only: the name of the licensee; his **or her** license number; its designated date of expiration; the date of his **or her** original Missouri licensure; the particular profession, practice or privilege licensed; and the status of his **or her** license as current and active or otherwise. This affidavit shall be received as substantial and competent evidence of the facts stated therein notwithstanding any objection as to the form, manner of presentment or admissibility of this evidence, and shall create a rebuttable presumption of the veracity of the statements therein; provided, however, that the procedures specified in section 536.070 shall apply to the introduction of this affidavit in any case where the status of this license constitutes a material issue of fact in the proof of the cause charged in the complaint.

621.110. COMMISSION'S FINDINGS AND RECOMMENDATIONS — HEARING BY AGENCY ON DISCIPLINARY ACTION. — Upon a finding in any cause charged by the complaint for which the license may be suspended or revoked as provided in the statutes and regulations relating to the profession or vocation of the licensee **and within one hundred twenty days of the date the case became ready for decision**, the commission shall deliver or transmit by mail to the agency which issued the license the record and a transcript of the proceedings before the commission together with the commission's findings of fact and conclusions of law. The commission may make recommendations as to appropriate disciplinary action but any such recommendations shall not be binding upon the agency. A copy of the findings of fact, conclusions of law and the commission's recommendations, if any, shall be delivered or transmitted by mail to the licensee if the licensee's whereabouts are known, and to any attorney who represented the licensee. Within thirty days after receipt of the record of the proceedings

before the commission and the findings of fact, conclusions of law, and recommendations, if any, of the commission, the agency shall set the matter for hearing upon the issue of appropriate disciplinary action and shall notify the licensee of the time and place of the hearing, provided that such hearing may be waived by consent of the agency and licensee where the commission has made recommendations as to appropriate disciplinary action. In case of such waiver by the agency and licensee, the recommendations of the commission shall become the order of the agency. The licensee may appear at said hearing and be represented by counsel. The agency may receive evidence relevant to said issue from the licensee or any other source. After such hearing the agency may order any disciplinary measure it deems appropriate and which is authorized by law. In any case where the commission fails to find any cause charged by the complaint for which the license may be suspended or revoked, the commission shall dismiss the complaint, and so notify all parties.

Approved July 13, 2011

HB 270 [SCS HB 270]

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 health insurance benefits for state employees

AN ACT to repeal sections 103.080 and 103.089, RSMo, and to enact in lieu thereof two new sections relating to the state employee health insurance program.

SECTION

A. Enacting clause.
103.080. High deductible plans and health savings accounts to be offered — definitions — premiums — consumer-driven health care plans — rulemaking authority.
103.089. Medicare benefits participants, effect.

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

SECTION A. ENACTING CLAUSE. — Sections 103.080 and 103.089, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 103.080 and 103.089, to read as follows:

103.080. HIGH DEDUCTIBLE PLANS AND HEALTH SAVINGS ACCOUNTS TO BE OFFERED — DEFINITIONS — PREMIUMS — CONSUMER-DRIVEN HEALTH CARE PLANS — 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 or retiree

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**] current** 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 or retiree 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. **Beginning with the open enrollment period for the 2012 plan year, the high deductible health plan offered under subsection 2 of this section shall have monthly subscriber premiums that are materially lower than non-high deductible health plan monthly subscriber premiums with a goal of monthly subscriber premiums being at least fifty percent lower than non-high deductible health plan premiums. The amount of the annual deductible for the high deductible health plan offered under subsection 2 of this section shall be no greater than two hundred percent of the minimum annual deductible for self-only coverage and family coverage as established by the Internal Revenue Service for the current tax year. The coverage afforded by the high deductible health plan, after the applicable deductible has been met, shall be substantially similar or better than the average coverage provided by the non-high deductible health plans.**

4. It is the intent of the Missouri general assembly to promote the use of consumer-driven health care plans such as health savings account compatible high deductible health plans by active state employees as an alternative to using traditional managed care plans. If, after the completion of the open enrollment period for the 2012 plan year, fewer than ten percent of Missouri's active state employees have enrolled in a high deductible health plan described in this section, then the board shall offer a more competitive high deductible health plan with increased financial and coverage incentives, including but not limited to alternative annual deductibles, out-of-pocket expenses, and other health plan design features, all within the established federal guidelines, with the goal of having forty percent of Missouri's active state employees enrolling in a health savings account compatible high deductible health plan by the open enrollment period for the 2015 plan year.

5. 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, 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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.**] 6.** 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.

103.089. MEDICARE BENEFITS PARTICIPANTS, EFFECT. — Participants in the program of medical benefits coverage provided by sections 103.003 to 103.175 who are eligible for Medicare benefits and who are not eligible for the program of medical benefits coverage provided under sections 103.083 to 103.098 to be their primary plan of coverage benefits shall be provided **[**the same**] substantially similar** benefits provided participants who are not eligible for Medicare benefits. Medical benefits coverage provided under sections 103.003 to 103.175 shall be coordinated with Medicare benefits for participants covered by part A or part B, or both, of Medicare benefits, or **for participants eligible for but not covered by part A or part B, or both, of Medicare benefits,** reduced by an amount determined by the claims administrator

to provide a benefit equivalent to the amount which would be provided on a coordination of benefit basis for **such** participants **[**not**] if such participants were** covered by part A or part B, or both, of Medicare benefits. As used in sections 103.083 to 103.098, the term "Medicare benefits" shall include those medical benefits provided by Title XVIII, A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. section 301, et seq.) and amendments thereto. Any participating member agency having employees or eligible retirees not covered by Medicare shall authorize the plan at its option to enroll those individuals for medical benefits as provided by Title XVIII, A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act whenever they become eligible for such benefits and the plan shall pay the premium for such enrollment on behalf of that person. The Medicare premium amounts shall be included in the rate established by the actuary for providing medical benefits coverage to such a participating member agency. Anyone not authorizing this Medicare enrollment shall be denied coverage.

Approved July 7, 2011

HB 282 [SS SCS HB 282]

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 public employee retirement

AN ACT to repeal sections 70.710, 70.720, 70.730, 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, 86.1620, 87.205, 87.207, 105.661, 105.915, and 105.927, RSMo, and to enact in lieu thereof thirty-two new sections relating to public employee retirement.

SECTION

A. Enacting clause.
70.710. Employer accumulation fund, created, uses — employer contributions.
70.720. Casualty reserve fund, created, source of funds, uses.
70.730. Employer's contributions, how computed.
86.900. Definitions.
86.1030. Benefits and administrative expenses to be paid by retirement system funds — commencement of base pension — death of a member, effect of.
86.1100. Creditable service, board to fix and determine by rule.
86.1110. Military leave of absence, effect of — service credit for military service, when.
86.1120. Termination of members after five or more years of service, credit towards retirement.
86.1140. Leave of absence not to act as termination of membership — creditable service permitted, when.
86.1150. Retirement age — base pension amount.
86.1230. Supplemental retirement benefits, amount — member to be special consultant, compensation.
86.1240. Pensions of spouses of deceased members — surviving spouse to be appointed as consultant to board, when.
86.1250. Pensions of children of deceased members.
86.1310. Definitions.
86.1420. Benefits and administrative expenses to be paid by system funds — commencement of base pension, when — death of member, effect of.
86.1480. Who shall be members.
86.1490. Creditable service, determination of — inclusions and exclusions.
86.1500. Military service, effect on creditable service — election to purchase creditable service, when — service credit for military service, when.
86.1510. Members entitled to prior creditable service, when.
86.1540. Normal pension, amount — early retirement option, when — election for optional benefit for spouse — pension after five years of creditable service — felony conviction, effect of.

86.1560. Disability retirement pension, amount — definitions — board to determine disability, proof may be required.
86.1600. Supplemental retirement benefit, amount, cost-of-living adjustments — special consultant, compensation — cost-of-living adjustments, rulemaking authority — member defined.
86.1610. Death of member in service, benefit to be received — death of member after retirement, benefit to be received — surviving spouse benefits.
86.1620. Funeral benefits, amount.
87.127. Qualified government plan, retirement plan intended to be.
87.205. Accidental disability retirement allowance.
87.207. Cost-of-living increase, how determined.
100.273. Development finance board employees are state employees eligible for state retirement — not eligible for state health insurance plan unless requested by board — no purchase of creditable service, exception.
104.603. Reciprocal transfer of creditable service, when.
105.661. All retirement plans to prepare financial report, content audit by state auditor and joint committee on public employee retirement — rules submitted to joint committee on public employee retirement, when — report required.
105.915. Board to administer plan — written agreement required — immunity from liability, when — automatic designation of surviving spouse as primary beneficiary, when.
105.927. State's contribution to participants in deferred compensation program.

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

SECTION A. ENACTING CLAUSE. — Sections 70.710, 70.720, 70.730, 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, 86.1620, 87.205, 87.207, 105.661, 105.915, and 105.927, RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 70.710, 70.720, 70.730, 86.900, 86.1030, 86.1100, 86.1110, 86.1120, 86.1140, 86.1150, 86.1230, 86.1240, 86.1250, 86.1310, 86.1420, 86.1480, 86.1490, 86.1500, 86.1510, 86.1540, 86.1560, 86.1600, 86.1610, 86.1620, 87.127, 87.205, 87.207, 100.273, 104.603, 105.661, 105.915, and 105.927, to read as follows:

70.710. EMPLOYER ACCUMULATION FUND, CREATED, USES — EMPLOYER CONTRIBUTIONS. — 1. The "Employer Accumulation Fund" is hereby created. It is the fund in which shall be accumulated the contributions made by employers for benefits, and from which shall be made transfers, as provided in sections 70.600 to 70.755.

2. When paid to the system, the employer contributions provided for in subsections 2 and 3 of section 70.730 shall be credited to the employer accumulation fund account of the employer making the contributions.

3. When an allowance other than a disability allowance **or an allowance that results from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee** first becomes due and payable, there shall be transferred to the benefit reserve fund from his employer's account in the employer accumulation fund the difference between the reserve for the allowance and the accumulated contributions standing to his credit in the members deposit fund at the time the allowance first becomes due and payable, of the member or former member to whom or on whose behalf the allowance is payable.

4. A separate account shall be maintained in the employer accumulation fund for each employer. No employer shall be responsible for the employer accumulation fund liabilities of another employer.

5. When a disability allowance **or an allowance that results from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee** first becomes due and payable, the accrued service pension reserve covering the retiring member shall be calculated in the manner provided for in subsection 3 of section 70.730, as of the effective date of the disability allowance. Such reserve shall be transferred to the benefit reserve fund from the employer's account in the employer accumulation fund.

70.720. CASUALTY RESERVE FUND, CREATED, SOURCE OF FUNDS, USES. — 1. The "Casualty Reserve Fund" is hereby created. It is the fund in which shall be accumulated the contributions made by employers for pensions **either** to be paid members who retire on account of disability **or that result from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee**, and from which shall be made transfers as provided in sections 70.600 to 70.755.

2. When paid to the system, the employer contributions provided for in subsection 4 of section 70.730 shall be credited to the casualty reserve fund.

3. When a disability allowance **or an allowance that results from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee** first becomes due and payable, there shall be transferred to the benefit reserve fund from the casualty reserve fund an amount equal to the reserve for the allowance, minus:

(1) The accumulated contributions, standing to the member's credit in the members deposit fund at the time the allowance first becomes due and payable; and

(2) The accrued service pension reserve determined pursuant to subsection 5 of section 70.710.

70.730. EMPLOYER'S CONTRIBUTIONS, HOW COMPUTED. — 1. Each employer's contributions to the system shall be the total of the contribution amounts provided for in subsections 2 through 5 of this section; provided, that such contributions shall be subject to the provisions of subsection 6 of this section.

2. An employer's normal cost contributions shall be determined as follows: Using the financial assumptions adopted by the board from time to time, the actuary shall annually compute the rate of contributions which, if paid annually by each employer during the total service of its members, will be sufficient to provide the pension reserves required at the time of their retirements to cover the pensions to which they might be entitled or which might be payable on their behalf. The board shall annually certify to the governing body of each employer the amount of membership service contribution so determined, and each employer shall pay such amount to the system during the employer's next fiscal year which begins six months or more after the date of such board certification. Such payments shall be made in such manner and form and in such frequency and shall be accompanied by such supporting data as the board shall from time to time determine. When received, such payments shall be credited to the employer's account in the employer accumulation fund.

3. An employer's accrued service contributions shall be determined as follows: Using the financial assumptions adopted by the board from time to time, the actuary shall annually compute for each employer the portions of pension reserves for pensions which will not be provided by future normal cost contributions. The accrued service pension reserves so determined for each employer less the employer's applicable balance in the employer accumulation fund shall be amortized over a period of years, as determined by the board. Such period of years shall not extend beyond the latest of (1) forty years from the date the political subdivision became an employer, or (2) thirty years from the date the employer last elected to increase its optional benefit program, or (3) fifteen years from the date of the annual actuarial computation. The board shall annually certify to the governing body of each employer the amount of accrued service contribution so determined for the employer, and each employer shall pay such amount to the system during the employer's next fiscal year which begins six months or more after the date of such board certification. Such payments shall be made in such manner and form and in such frequency and shall be accompanied by such supporting data as the board shall from time to time determine. When received, such payments shall be credited to the employer's account in the employer accumulation fund.

4. The employer's contributions for the portions of disability pensions **or pensions that result from a member's death that was the natural and proximate result of a personal injury or disease arising out of and in the course of his or her actual performance of duty as an employee** not covered by accrued service pension reserves shall be determined on a one-year term basis. The board may determine different rates of contributions for employers having policeman members or having fireman members or having neither policeman members nor fireman members. The board shall annually certify to the governing body of each employer the amount of contribution so ascertained for the employer, and each employer shall pay such amount to the system during the employer's next fiscal year which begins six months or more after the date of such board certification. Such payments shall be made in such manner and form and in such frequency and shall be accompanied by such supporting data as the board shall from time to time ascertain. When received, such payments shall be credited to the casualty reserve fund.

5. Each employer shall provide its share, as determined by the board, of the administrative expenses of the system and shall pay **the** same to the system to be credited to the income-expense fund.

6. The employer's total contribution to the system, expressed as a percent of active member compensations, in any employer fiscal year, beginning with the second fiscal year that the political subdivision is an employer, shall not exceed its total contributions for the immediately preceding fiscal year, expressed as a percent of active member compensations, by more than one percent.

86.900. DEFINITIONS. — The following words and phrases as used in sections 86.900 to 86.1280 shall have the following meanings unless a different meaning is plainly required by the context:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary, for the purchase of prior service credits or any other purpose permitted under sections 86.900 to 86.1280;

(2) **"Actuarial cost", the present value of a future payment or series of payments as calculated by applying the actuarial assumptions established according to subsection 8 of section 86.1270;**

(3) "Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.900 to 86.1280;

[(3)**] (4)** "Board of police commissioners", the board composed of police commissioners authorized by law to employ and manage an organized police force in the cities;

[(4)**] (5)** "City" or "cities", any city which now has or may hereafter have a population of more than three hundred thousand and less than seven hundred thousand inhabitants, or any city that has made an election under section 86.910 to continue a police retirement system maintained under sections 86.900 to 86.1280;

[(5)**] (6)** "Compensation", the basic wage or salary paid a member for any period on the basis of the member's rank and position, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

[(6)**] (7)** "Consultant", unless otherwise specifically defined, a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, upon request of the retirement board, shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be needed by the board;

[(7)**] (8)** "Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.900 to 86.1280 by meeting the requirements specified in said sections or section 105.691;

[(8)**] (9)** "Final compensation", the average annual compensation of a member during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member, no compensation for service after the thirtieth full year of membership service shall be included. For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;

[(9)**] (10)** "Fiscal year", for the retirement system, the fiscal year of the cities;

[(10)**] (11)** "Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;

[(11)**] (12)** "Medical board", not less than one nor more than three physicians appointed by the retirement board to arrange for and conduct medical examinations as directed by the retirement board;

[(12)**] (13)** "Member", a member of the police retirement system as described in section 86.1090;

[(13)**] (14)** "Pension", annual payments for life, payable monthly, **[**beginning with the date of retirement or other applicable commencement date and ending with death**] at the times described in section 86.1030**;

[(14)**] (15)** "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.900 to 86.1280 and by the members of the police retirement system;

[(15)**] (16)** "Police officer", an officer or member of the police department of the cities employed for compensation by the boards of police commissioners of the cities for police duty who holds a rank or position for which an annual salary range is provided in section 84.480 or 84.510; in case of dispute as to whether any person is a police officer qualified for membership in the retirement system, the decision of the board of police commissioners shall be final;

[(16)**] (17)** "Retirement board" or "board", the board provided in section 86.920 to administer the retirement system;

[(17)**] (18)** "Retirement system", the police retirement system of the cities as defined in section 86.910;

[(18)**] (19)** "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.900 to 86.1280 by reason of surviving a member, shall include only:

(a) A person who was married to a member at the time of the member's death in the line of duty or from an occupational disease arising out of and in the course of the member's employment and who had not, after the member's death and prior to August 28, 2000, remarried;

(b) With respect to a member who retired or died prior to August 28, 1997, a spouse who survives such member, whose marriage to such member occurred at least two years before the member's retirement or at least two years before the member's death while in service, and who had not remarried anyone other than the member prior to August 28, 2000;

(c) With respect to a member who retired or died while in service after August 28, 1997, and before August 28, 2000, a spouse who survives such member, was married to such member at the time of such member's retirement or of such member's death while in service, and had not, after the member's death and prior to August 28, 2000, remarried; and

(d) With respect to a member who retires or dies in service after August 28, 2000, a spouse who survives a member and was married to such member at the time of such member's retirement or death while in service.

86.1030. BENEFITS AND ADMINISTRATIVE EXPENSES TO BE PAID BY RETIREMENT SYSTEM FUNDS — COMMENCEMENT OF BASE PENSION — DEATH OF A MEMBER, EFFECT OF. — 1. All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system.

2. The base pension of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a base pension under sections

86.900 to 86.1280 shall commence as of the first day of the month next following such retirement or termination with no proration of such pension for the month in which such retirement or termination occurs. The supplemental retirement benefits of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a supplemental retirement benefit provided in subsection 1 of section 86.1230 shall commence as of the first day of the month next following such retirement or termination with no proration of such supplemental retirement benefit for the month in which such retirement or termination occurs.

3. Upon the death of a member who is receiving a base pension under sections 86.900 to 86.1280 leaving a surviving spouse, as defined in section 86.900, entitled to benefits, payment of the member's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such member was living, shall be made to such surviving spouse, and the benefit for which such spouse is entitled under section 86.1240 shall be prorated and paid to such spouse for the remainder of such month.

4. Upon the death of a member who is receiving a base pension under sections 86.900 to 86.1280 leaving no surviving spouse, as defined in section 86.900, entitled to benefits, payment of the member's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such member was living, shall be made in equal shares to or for the benefit of the children, if any, of such member as are entitled to share in spousal benefits as described in subsection 2 of section 86.1250. If no such children shall survive such member, such prorated benefit for the month of such member's death shall be paid to the beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit. If no beneficiary is named, then no payment shall be made of such prorated benefit for the month of such member's death.

5. Upon the death of a surviving spouse who is receiving a base pension under section 86.1240, payment of such spouse's base pension including all cost-of-living adjustments thereto, prorated for that portion of the month of such death in which such spouse was living, shall be made in equal shares to or for the benefit of the children, if any, of the member of whom such spouse is the surviving spouse as are entitled to share in spousal benefits described in subsection 2 of section 86.1250. If no such children shall survive such spouse, such prorated benefit for the month of such spouse's death shall be paid to the beneficiary named by such surviving spouse in a writing filed with the retirement system prior to such spouse's death for the purpose of receiving such benefit. If no beneficiary is named, then no payment shall be made of such prorated benefit for the month of such spouse's death.

6. Upon the death of a member who is receiving a supplemental benefit under section 86.1230 and who leaves a surviving spouse, as defined in section 86.900, entitled to benefits, the entire supplemental benefit for the month of such death shall be paid to such surviving spouse without proration, and the surviving spouse shall receive no additional supplemental benefit for such month.

7. Upon the death of a member who is receiving a supplemental benefit under section 86.1230 and who leaves no surviving spouse, as defined in section 86.900, entitled to benefits, or upon the death of a surviving spouse who is receiving a supplemental benefit under section 86.1230, such supplemental benefit shall terminate upon such death. No benefit shall be payable for any period after the most recent monthly payment of such benefit prior to such death.

8. Upon the death of a member in service who leaves a surviving spouse, as defined in section 86.900, entitled to benefits, the base pension of such surviving spouse shall commence as of the first day of the month next following such death with no proration of such pension for the month in which such death occurs.

9. Upon the death of a member in service who leaves no surviving spouse, as defined in section 86.900, entitled to benefits, any benefit payable to surviving children of such member under subsection 2 of section 86.1250 shall commence as of the first day of the month next following such death with no proration of such benefit for the month in which such death occurs. If there are no such surviving children entitled to such benefit, then such member's accumulated contributions shall be paid to the beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, or if no beneficiary is named, then to such member's estate.

10. Upon the death of a member in service or after retirement, any benefit payable to the surviving children of such member under subsection 1 of section 86.1250 shall commence as of the first day of the month next following such death with no proration of such benefit for the month in which such death occurs.

11. All payments of any benefit shall be paid on the last business day of each month for that month. For any benefit under sections 86.900 to 86.1280, the retirement system shall withhold payment of such benefit until all requisite documentation has been filed with the retirement system evidencing the entitlement of payee to such payment.

12. If no benefits are otherwise payable to a surviving spouse or child of a deceased member or otherwise as provided in this section, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse or child of such member or otherwise as provided in this section, shall be paid in one lump sum to the member's beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, or if no beneficiary is named, then to such member's estate. Such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

86.1100. CREDITABLE SERVICE, BOARD TO FIX AND DETERMINE BY RULE. — 1. The retirement board shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service. In no case shall more than one year of service be creditable for all service rendered in one calendar year. The retirement board shall not allow credit as service for any period **[**of more than thirty consecutive days**]** during which the member was absent without compensation, except as provided in **[**subsection 3 of section**] sections 86.1110 and** 86.1140.

2. **Except as provided in subsection 3 of section 86.1110,** creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member since such member last became a member.

3. Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.900 to 86.1280.

4. Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1010 or from the city under section 86.1000 for such time.

5. Any member who has completed thirty years of creditable service may continue in service by permission of the board of police commissioners. Contributions shall not be required of, and no service shall be credited to, any member for more than thirty years of service.

86.1110. MILITARY LEAVE OF ABSENCE, EFFECT OF — SERVICE CREDIT FOR MILITARY SERVICE, WHEN. — 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Except as provided in subsection 3 of this section, a member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial **[**value**] cost** of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. **[**The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system.**]** Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse, or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.900 to 86.1280.

3. Notwithstanding any other provision of sections 86.900 to 86.1280, a member who is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations, and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code, relating to employment and reemployment rights of members of the uniformed services by meeting the requirements for such rights and benefits under Section 4312 of said chapter, or the corresponding provisions of any subsequent applicable **[**U.S.**] federal** statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.900 to 86.1280 and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of such service to be included in the calculation of such member's compensation for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence.

86.1120. TERMINATION OF MEMBERS AFTER FIVE OR MORE YEARS OF SERVICE, CREDIT TOWARDS RETIREMENT. — Members who terminate membership with five years or more of creditable service and later return to membership may be given credit toward retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the **[**accumulated contributions which had been paid to such member upon the prior termination. Such repayment of withdrawn contributions shall be accompanied by an additional

payment of interest equal to the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes**] member's portion of the actuarial cost to restore such service. The member's portion of the actuarial cost is determined on the ratio of the member's contribution rate to the total of the member and employer contribution rates at the time the member elects to purchase the creditable service**.

86.1140. LEAVE OF ABSENCE NOT TO ACT AS TERMINATION OF MEMBERSHIP — CREDITABLE SERVICE PERMITTED, WHEN. — 1. Should any member be granted leave of absence by the board of police commissioners, such member shall not, because of such absence, cease to be a member.

2. If a member is on leave of absence by authority of the board of police commissioners for thirty consecutive days or less, **and returns from such leave prior to August 28, 2011,** such member shall receive creditable service for such time.

3. Except as provided in subsection 3 of section 86.1110, if a member is on leave of absence **[**for more than thirty consecutive days**]** without compensation, such member shall not receive service credits for such time unless such member shall**[**, within one year after returning from such absence, pay into the retirement system an amount equal to the member's contribution percentage at the time such absence began times an assumed salary figure for the period of such absence, computed by assuming that such member received a salary during such absence at the rate of the base annual salary the member was receiving immediately prior to such absence**] return to active service and purchase such creditable service at the actuarial cost. The actuarial cost shall be determined at the time the member makes such purchase**.

86.1150. RETIREMENT AGE — BASE PENSION AMOUNT. — 1. Any member may retire when such member has completed twenty-five or more years of creditable service and, except as otherwise provided in section 86.1100, shall retire when such member has completed thirty years of creditable service. Upon such retirement such member shall receive a base pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service. Such pension shall not exceed seventy-five percent of the member's final compensation.

2. Every member not having thirty years of service must retire at sixty years of age except that on recommendation of the chief of police, the board of police commissioners may permit such member who is sixty years of age or over to remain in service until such member reaches the age of sixty-five years. Such member shall continue to make contributions and receive credit for service until reaching sixty-five years of age, until retirement, or until completion of thirty years of creditable service, whichever occurs first. If such member shall reach sixty-five years of age or shall retire prior to completion of twenty-five years of service, the base pension of such member shall be calculated under subsection 3 of this section.

3. Except as provided in section 86.1100 or in subsection 2 of this section, any member in service who shall have attained sixty years of age and at that time shall have completed at least ten but less than thirty years of creditable service shall retire and shall receive a base pension equal to:

(1) For a member retiring prior to August 28, 2000, two percent of such member's final compensation, as defined in section 86.900, multiplied by the number of years of such member's total creditable service; or

(2) For a member retiring on or after August 28, 2000, two and one-half percent of such member's final compensation as defined in section 86.900 multiplied by the number of years of such member's total creditable service.

4. Subject to the provisions of subsection 5 of this section, whenever the service of a member is terminated for any reason prior to death or retirement and the member has fifteen or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to a base pension **[**beginning at**]** **commencing on the first day of the month following the attainment of** the age of fifty-five, if then living, equal to:

(1) For a member whose service so terminates prior to August 28, 2001, two percent of such member's final compensation multiplied by the number of years of such member's creditable service; or

(2) For a member whose service so terminates on or after August 28, 2001, two and one-half percent of such member's final compensation multiplied by the number of years of such member's creditable service.

5. Notwithstanding any other provisions of sections 86.900 to 86.1280, any member who is convicted of a felony prior to separation from active service shall not be entitled to any benefit from this retirement system except the return of such member's accumulated contributions.

86.1230. SUPPLEMENTAL RETIREMENT BENEFITS, AMOUNT — MEMBER TO BE SPECIAL CONSULTANT, COMPENSATION. — 1. Any member who retires subsequent to August 28, 1991, with entitlement to a pension under sections 86.900 to 86.1280, shall receive **[**each month**]**, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

2. Any member who was retired on or before August 28, 1991, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive **[**each month**]**, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

3. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse entitled to a benefit under sections 86.900 to 86.1280 who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that if the surviving spouse of any member who retired prior to August 28, 2000, shall not have remarried prior to August 28, 2000, but remarries thereafter, such surviving spouse shall thereafter receive benefits under subsection 2 of this section, and provided further, that no benefits shall be payable under this section to the surviving spouse of any member who retired prior to August 28, 2000, if such surviving spouse was at any time remarried after the member's death and prior to August 28, 2000. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such

surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280. Any such surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension which would be received by a surviving spouse if living.

4. Any member who is receiving benefits from the retirement system and who either was retired under the provisions of subdivision (1) of subsection 1 of section 86.1150, or who retired before August 28, 2001, under the provisions of section 86.1180 or section 86.1200, shall, upon application to the retirement board, be retained as a consultant. For such services such member shall receive each month in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1220, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.900 to 86.1280, an equalizing supplemental compensation of ten dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.900 to 86.1280, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the member's base pension. Each cost-of-living adjustment to compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. For the purposes of this subsection, the term "member" shall include a surviving spouse entitled to benefits under the provisions of sections 86.900 to 86.1280, and who is the surviving spouse of a member who qualified, or would have qualified if living, for compensation under this subsection. Such surviving spouse shall, upon application to the retirement board, be retained as a consultant, and for such services shall be compensated in an amount equal to the compensation which would have been received by the member under this subsection, if living. Any such surviving spouse of a member who dies while entitled to payments under this subsection shall succeed to the full amount of payment under this subsection to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this subsection prior to such member's death. In all events, the term "member" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

5. A surviving spouse who is entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death prior to August 28, 2007, of a member in service, and who is receiving benefits from the retirement system, shall, upon application to the retirement board, be retained as a consultant, and for such services such surviving spouse shall receive each month an equalizing supplemental compensation of ten dollars per month. A surviving spouse entitled to benefits under the provisions of subsection 1 of section 86.1240 as a result of the death of a member in service on or after August 28, 2007, shall receive each month an equalizing supplemental benefit of ten dollars per month. All benefits payable to a surviving spouse under this subsection shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.900 to 86.1280 and shall in no way have the effect of reducing benefits otherwise payable to such surviving spouse. The amount of equalizing supplemental benefit or equalizing supplemental compensation under this subsection may be adjusted by cost-of-living adjustments, determined by the retirement board not more frequently than annually, but in no event shall the aggregate of such equalizing supplemental benefit or compensation together with all such cost-of-living adjustments thereto exceed twenty-five percent of the base pension of the surviving spouse. Each cost-of-living adjustment to an equalizing

supplemental benefit or compensation under this subsection shall be determined independently of any cost-of-living adjustment to any other benefit under sections 86.900 to 86.1280. In all events the term "surviving spouse" as used in this subsection shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

6. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any benefit or compensation under this section for any member.

7. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, any benefit or compensation payments provided under this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

86.1240. PENSIONS OF SPOUSES OF DECEASED MEMBERS — SURVIVING SPOUSE TO BE APPOINTED AS CONSULTANT TO BOARD, WHEN. — 1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection **[**7**] 6** of this section, a base pension equal to forty percent of the final compensation of such member, subject to adjustments, if any, as provided in section 86.1220.

2. (1) Upon receipt of the proper proofs of death of a member who was retired or terminated service after August 28, 1999, and died after **[**commencement of benefits to such member**] having become entitled to benefits** from this retirement system, there shall be paid to such member's surviving spouse, if any, in addition to all other benefits but subject to subsection **[**7**] 6** of this section, a base pension equal to eighty percent of the pension being received by such member, including cost-of-living adjustments to such pension but excluding supplemental retirement benefits, at the time of such member's death, subject to subsequent adjustments, if any, as provided in section 86.1220. The pension provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

(2) (a) Upon receipt of the proper proof of death of a member who retired or terminated service on or before August 28, 1999, and who died after August 28, 1999, and after **[**commencement of benefits to such member**] having become entitled to benefits** from this retirement system, such member's surviving spouse, if any, shall be entitled to a base pension equal to forty percent of the final compensation of such member.

(b) Such a surviving spouse shall, upon application to the retirement board, be appointed by the retirement board as a consultant and be compensated in an amount equal to the benefits such spouse would receive under subdivision (1) of this subsection if the member had retired or terminated service after August 28, 1999.

(c) The benefits provided by this subdivision shall terminate upon remarriage by the surviving spouse prior to August 28, 2000.

3. In the case of any member who, prior to August 28, 2000, died in service or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for remarriage, and who has not remarried prior to August 28, 2000, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.900 to 86.1280 in the absence of such remarriage.

4. **[**For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount thereof established, regardless of whether the member has received the initial payment of such benefit.

5.**]** Upon the death of any member who is in service after August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse's benefit provided under this section, without including any supplemental retirement benefits paid such surviving spouse by this retirement system, shall be six hundred dollars per month. For any member who died, retired or terminated service on or before August 28, 2000, and who either had at least twenty-five years of creditable service or was retired or died as a result of an injury or illness occurring in the line of duty or course of employment under section 86.1180, the surviving spouse shall upon application to the retirement board be appointed by the retirement board as a consultant. For services as such consultant, the surviving spouse shall, beginning the later of August 28, 2000, or the time the appointment is made under this subsection, be compensated in an amount which without including supplemental retirement benefits provided by this system shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly.

[6.**] 5.** A surviving spouse who is entitled to benefits under the provisions of subsection 1 of this section as a result of the death on or before August 28, 2009, of a member in service who is receiving benefits under sections 86.900 to 86.1280 and who does not qualify under the provisions of subsection **[**5**] 4** of this section shall, upon application to the retirement board, be appointed as a consultant, and for such services such surviving spouse shall be compensated in an amount which, without including any supplemental retirement benefits provided by sections 86.900 to 86.1280, shall be six hundred dollars monthly. A pension benefit under this subsection shall be paid in lieu of any base pension as increased by cost-of-living adjustments granted under section 86.1220. The benefit under this subsection shall not be subject to cost-of-living adjustments, but shall be terminated and replaced by the base pension and cost-of-living adjustments to which such surviving spouse would otherwise be entitled at such time as the total base pension and such adjustments exceed six hundred dollars monthly. As used in this subsection, "surviving spouse" shall not include any children of the member who would be entitled to receive part or all of the pension that would be received by a surviving spouse, if living.

[7.**] 6.** Any beneficiary of benefits under sections 86.900 to 86.1280 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member.

86.1250. PENSIONS OF CHILDREN OF DECEASED MEMBERS. — 1. (1) Upon the death of a member in service or after retirement **[**and commencement of benefits**]**, such member's child or children under the age of eighteen years at the time of the member's death shall be paid fifty dollars per month each until he or she shall attain the age of eighteen years; however, each such child who is or becomes a full-time student at an accredited educational institution shall continue to receive payments under this section for so long as such child shall remain such a full-time student or shall be in a summer or other vacation period scheduled by the institution with intent by such child, demonstrated to the satisfaction of the retirement board, to return to such full-time student status upon the resumption of the institution's classes following such vacation period, but

in no event shall such payments be continued after such child shall attain the age of twenty-one years except as hereinafter provided.

(2) Any child eighteen years of age or older, who is physically or mentally incapacitated from wage earning, so long as such incapacity exists as certified by a member of the medical board, shall be entitled to the same benefits as a child under the age of eighteen. For purposes of this section, a determination of whether a child of a member is physically or mentally incapacitated from wage earning so that the child is entitled to benefits under this section shall be made at the time of the member's death. If a child becomes incapacitated after the member's death, or if a child's incapacity existing at the member's death is removed and such child later becomes incapacitated again, such child shall not be entitled to benefits as an incapacitated child under the provisions of this section. A child shall be deemed incapacitated only for so long as the incapacity existing at the time of the member's death continues.

(3) Notwithstanding any other law to the contrary, amounts payable under subdivision (1) or (2) of this subsection shall not be subject to offset or reduction by amounts paid or payable under any workers' compensation or similar law.

2. Upon or after the death of a member in service or after retirement **[**and commencement of**] with entitlement to** benefits, if there is no surviving spouse or if a surviving spouse dies, the total amount, including any amounts receivable as consulting compensation, but not including any supplemental benefits under section 86.1230, which would be received by a qualified surviving spouse or which is being received by the surviving spouse at the date of death of such surviving spouse shall be added to the amounts received by and shall be divided among the children of such member under the age of eighteen years and the incapacitated children in equal shares. As each such child attains the age of eighteen years or has such incapacity removed, such total amount shall then be divided among the remaining such children, until there is no remaining child of such member under the age of eighteen years or incapacitated, at which time all benefits for children of such member under this subsection shall cease.

3. Upon the death of a member in service or after retirement **[**and commencement of benefits**]**, a funeral benefit of one thousand dollars shall be paid to the person or entity who provided or paid for the funeral services for such member.

[4. If no benefits are otherwise payable to a surviving spouse or child of a deceased member, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse or child of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. For purposes of this section, commencement of benefits shall begin, for any benefit, at such time as all requirements of sections 86.900 to 86.1280 have been met entitling the member to a payment of such benefit at the next following payment date with the amount established, regardless of whether the member has received the initial payment of such benefit.**]**

86.1310. DEFINITIONS. — The following words and phrases as used in sections 86.1310 to 86.1640 shall have the following meanings unless a different meaning is plainly required by the context:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary for the purchase of prior service credits or any other purpose permitted under sections 86.1310 to 86.1640, in all cases with interest**, if any,** thereon at a rate determined from time to time for such purpose by the retirement board;

(2) **"Actuarial cost", the present value of a future payment or series of payments as calculated by applying the actuarial assumptions established according to subsection 8 of section 86.1630;**

(3) "Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.1310 to 86.1640;

[(3)**] (4)** "Board of police commissioners", the board composed of police commissioners authorized by law to employ and manage an organized police force in the cities;

[(4)**] (5)** "City" or "cities", any city which now has or may hereafter have a population of more than three hundred thousand and less than seven hundred thousand inhabitants, or any city that has made an election under section 86.1320 to continue a civilian employees' retirement system theretofore maintained under sections 86.1310 to 86.1640;

[(5)**] (6)** "Compensation", the basic wage or salary paid a member for any period, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

[(6)**] (7)** "Consultant", unless otherwise specifically defined, means a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, upon request of the retirement board, shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be needed by the board;

[(7)**] (8)** "Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.1310 to 86.1640 by meeting the requirements specified in such sections, or section 105.691;

[(8)**] (9)** "Employee", any regularly appointed civilian employee of the police department of the city as specified in sections 86.1310 to 86.1640 who is**:**

(a) Appointed prior to August 28, 2011, and is not eligible to receive a pension from the police retirement system of said city;

(b) Appointed on or after August 28, 2011, and is not eligible to receive a pension from the police retirement system of such city or from any other retirement or pension system of such city;

[(9)**] (10)** "Final compensation", the average annual compensation of a member during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;

[(10)**] (11)** "Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;

[(11)**] (12)** "Medical board", not less than one nor more than three physicians appointed by the retirement board to arrange for and conduct medical examinations as directed by the retirement board;

[(12)**] (13)** "Member", a member of the civilian employees' retirement system as described in section 86.1480;

[(13)**] (14)** "Pension", annual payments for life, payable monthly, **[**beginning with the date of retirement or other applicable commencement date and ending with death**] at the times described in section 86.1420**;

[(14)**] (15)** "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.1310 to 86.1640 and by the members of the civilian employees' retirement system;

[(15)**] (16)** "Retirement", termination of a member's status as an employee of the police department of the city at a time when the member or the member's beneficiary is immediately entitled to one or more benefits under sections 86.1310 to 86.1640;

[(16)**] (17)** "Retirement board" or "board", the board provided in section 86.1330 to administer the retirement system;

[(17)**] (18)** "Retirement system", the civilian employees' retirement system of the police department of the cities as defined in section 86.1320;

[(18)**] (19)** "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.1310 to 86.1640 by reason of surviving a member, shall include only:

(a) The person who was married to the member at the time of the member's death in service prior to August 28, 2001, and who had not remarried prior to August 28, 2001;

(b) The person who was married to the member at the time of the member's death in service on or after August 28, 2001;

(c) In the case of any member who both retired and died prior to August 28, 2001, the person who was married to the member at the time of the member's death and who had not remarried prior to August 28, 2001;

(d) In the case of any member who retired prior to August 28, 2001, and died on or after that date, the person who was married to the member at the time of the member's death; or

(e) In the case of any member who retired on or after August 28, 2001, the person who was married to the member at both the time of the member's retirement and the time of the member's death.

86.1420. BENEFITS AND ADMINISTRATIVE EXPENSES TO BE PAID BY SYSTEM FUNDS — COMMENCEMENT OF BASE PENSION, WHEN — DEATH OF MEMBER, EFFECT OF. — 1. All benefits and all necessary administrative expenses of the retirement system shall be paid from the funds of the retirement system.

2. The base pension of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a base pension under sections 86.1310 to 86.1640 shall commence as of the first day of the month next following such retirement or termination with no proration of such pension for the month in which such retirement or termination occurs. The supplemental retirement benefit of a member who, after August 28, 2011, retires from or otherwise terminates active service with entitlement to a supplemental retirement benefit provided in subsection 1 of section 86.1600 shall commence as of the first day of the month next following such retirement or termination with no proration of such supplemental retirement benefit for the month in which such retirement or termination occurs.

3. Upon the death of a member in service who leaves a surviving spouse, as defined in section 86.1310, entitled to benefits, any base pension which such surviving spouse shall elect under subdivision (2) of subsection 1 of section 86.1610 or under paragraph (b) of subdivision (3) of subsection 1 of section 86.1610 shall commence the later of the first day of the month next following such death or the first day of the month following the date which would have been the member's earliest possible retirement date permitted under subsection 2 of section 86.1540 with no proration of such pension for the month prior to such commencement date. Any base pension which such surviving spouse shall elect under paragraph (c) of subdivision (3) of subsection 1 of section 86.1610 shall commence the first day of the month next following such death with no proration of such pension for the month prior to such commencement date.

4. Upon the death of a member who is receiving a base pension under sections 86.1310 to 86.1640 leaving a surviving spouse, as defined in section 86.1310, entitled to benefits, the pension of such surviving spouse shall commence on the first day of the month next following such death with no proration for the month in which such death occurs.

5. All payments of any benefit shall be paid on the first business day of each month for that month. For any benefit under sections 86.1310 to 86.1640, the retirement system shall withhold payment of such benefit until all requisite documentation has been filed with the retirement system evidencing the entitlement of the payee to such payment. The final payment due to a retired member shall be the payment due on the first day of the

month in which such member's death occurs. The final payment due to any surviving spouse shall be the payment due on the first day of the month in which such surviving spouse dies or otherwise ceases to be entitled to benefits under sections 86.1310 to 86.1640.

6. If no benefits are otherwise payable to a surviving spouse of a deceased member or otherwise as provided in this section, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse of such member or otherwise as provided in this section, shall be paid in one lump sum to the member's beneficiary named by such member in a writing filed with the retirement system prior to the member's death for the purpose of receiving such benefit, and if no beneficiary is named, then to such member's estate. Such payment shall constitute full and final payment of any and all claims for benefits under the retirement system, except as provided in section 86.1620.

86.1480. WHO SHALL BE MEMBERS. — 1. Every person who becomes an employee, as defined in subdivision **[**(8)**] (9)** of section 86.1310, after August 28, 2001, shall become a member of the retirement system defined in sections 86.1310 to 86.1640 as a condition of such employment.

2. Every person who was a member of the retirement system on or before August 28, 2001, shall remain a member.

3. Every person who was an employee, as defined in subdivision **[**(8)**] (9)** of section 86.1310, on August 28, 2001, but was not a member, shall become a member as a condition of employment upon the completion of six months' continuous employment.

86.1490. CREDITABLE SERVICE, DETERMINATION OF — INCLUSIONS AND EXCLUSIONS. — 1. **The retirement board shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of service. In no case shall more than one year of service be creditable for all service rendered in one calendar year. The retirement board shall not allow credit as service for any period during which the member was absent without compensation, except as provided in subsection 3 of this section and subsection 3 of section 86.1500.**

2. Except as provided in subsection 3 of section 86.1500, creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member **[**for which such member received compensation**]** since such member last became a member.

3. Except as provided in subsection 3 of section 86.1500, if a member is on leave of absence without compensation, such member shall not receive service credits for such time unless such member shall return to active service and purchase such creditable service at the actuarial cost. The actuarial cost shall be determined at the time the member makes such purchase.

[2.**] 4.** Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.1310 to 86.1640.

[3.**] 5.** Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1400 or from the city under section 86.1390 for such time.

86.1500. MILITARY SERVICE, EFFECT ON CREDITABLE SERVICE — ELECTION TO PURCHASE CREDITABLE SERVICE, WHEN — SERVICE CREDIT FOR MILITARY SERVICE, WHEN. — 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Except as provided in subsection 3 of this section, a member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial **[**value**] cost** of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. **[**The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system.**]** Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is determined by the retirement board to be totally and permanently disabled as provided in section 86.1560.

3. Notwithstanding any other provision of sections 86.1310 to 86.1640, a member who is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations, and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code, relating to employment and reemployment rights of members of the uniformed services by meeting the requirements for such rights and benefits under Section 4312 of said chapter, or the corresponding provisions of any subsequent applicable **[**U.S.**] federal** statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.1310 to 86.1640 and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of such service to be included in the calculation of such member's compensation for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence.

86.1510. MEMBERS ENTITLED TO PRIOR CREDITABLE SERVICE, WHEN. — Members who terminate membership with three years or more of creditable service and later return to membership may be given credit toward retirement for prior creditable service, subject to the condition that such member deposit in the pension fund a sum equal to the **[**accumulated contributions which had been paid to such member upon the prior termination. Such repayment of withdrawn contributions shall be accompanied by an additional payment of interest equal to

the amount of the actual net yield earned or incurred by the pension fund, including both net income after expenses and net appreciation or depreciation in values of the fund, whether realized or unrealized, during the period of time from the date upon which such contributions had been withdrawn to the date of repayment thereof, determined in accordance with such rules for valuation and accounting as may be adopted by the retirement board for such purposes**] member's portion of the actuarial cost to restore such service. The member's portion of the actuarial cost is determined on the ratio of the member's contribution rate to the total of the member and employer contribution rates at the time the member elects to purchase the creditable service**.

86.1540. NORMAL PENSION, AMOUNT — EARLY RETIREMENT OPTION, WHEN — ELECTION FOR OPTIONAL BENEFIT FOR SPOUSE — PENSION AFTER FIVE YEARS OF CREDITABLE SERVICE — FELONY CONVICTION, EFFECT OF. — 1. (1) Upon retirement on or after a member's normal retirement date, such member shall receive a base pension in the amount of two percent of such member's final compensation times the number of years, including fractions thereof, of such member's creditable service.

(2) Such member may elect to receive a different base pension under an election permitted under this section or section 86.1580.

2. Members may elect early retirement as follows:

(1) Beginning at age fifty-five, if the member has completed at least ten years of creditable service or at any later age after the member has completed at least ten years of creditable service. Unless subdivision (3) of this subsection shall be applicable, the benefit as computed under subsection 1 of this section shall be reduced by one-half of one percent for each **full** month the **[**effective date**] initial payment** is prior to the first day of the month following that in which such member will attain age sixty;

(2) Beginning at age sixty, if the member has completed at least five but not more than ten years of creditable service or at any later age after the member has completed at least five years of creditable service. Unless subdivision (3) of this subsection shall be applicable, the benefit as computed under subsection 1 of this section shall be reduced by one-half of one percent for each **full** month the **[**effective date**] initial payment** is prior to the first day of the month following that in which such member will attain age sixty-five; or

(3) At any time after the member's total of age and years of creditable service equals or exceeds eighty, in which event the benefit shall be as computed under subsection 1 of this section without any reduction. If an election for early retirement results in a reduced benefit under subdivision (1) or (2) of this subsection, such reduced benefit shall become the member's base pension, subject to all other adjustments described in this section.

3. (1) A member who is married at the time of retirement may by a written election, with the written consent of such member's spouse, elect an optional benefit calculated as follows: such optional benefit shall be a monthly pension in the initial amount which shall be actuarially equivalent to the actuarial value of the pension described in subdivision (1) of subsection 1 of this section for such member at the date of retirement (including the value of survivorship rights of a surviving spouse, where applicable, under section 86.1610), upon the basis that the initial annuity for the member's spouse, if such spouse survives the member, shall be the same as the amount being paid the member on such annuity at the member's death, and, subject to cost-of-living adjustments thereafter declared on the spouse's base pension under section 86.1590, shall be paid to such surviving spouse for the lifetime of such spouse without regard to remarriage. If a member who makes an election of an optional benefit under this subsection has also elected an early retirement under either subdivision (1) or (2) of subsection 2 of this section, any reduction in benefit required for such early retirement election shall be calculated before calculating the initial amount of the optional benefit under this subsection.

(2) If a member who makes the election permitted by this subsection also makes an election permitted under section 86.1580, such optional benefit shall be reduced as provided in subdivision (3) of subsection 2 of section 86.1580.

(3) If a member makes the election permitted by this subsection, the amount calculated for such optional benefit under either subdivision (1) or (2) of this subsection shall be the base pension for such member and for such member's spouse for all purposes of sections 86.1310 to 86.1640.

(4) An election for an optional benefit under this subsection shall be void if the member dies within thirty days after filing such election with the retirement system or if the member dies before the due date of the first payment of such member's pension.

4. Subject to the provisions of subsection **[**7**] 6** of this section, whenever the service of a member is terminated after August 28, 1999, for any reason prior to death or retirement and the member has five or more years of creditable service, the member may elect not to withdraw such member's accumulated contributions and shall become entitled to receive a pension upon such member's normal retirement date under subdivision (1) of subsection 1 of this section or may elect to receive a pension commencing upon or after any date, prior to his or her normal retirement date, upon which early retirement would have been permitted under subsection 2 of this section if such member had remained a civilian employee of such police department, except that in calculating any qualification under subsection 2 of this section, such member shall not be entitled to count any year of creditable service in excess of such member's total years of creditable service at the time of such member's termination of employment. The amount of any pension commenced upon the basis of a date permitted under subsection 2 of this section shall be computed on the basis of the member's final compensation and number of years of creditable service, subject to such adjustments as may be applicable under the subdivision of subsection 2 of this section upon which such member relies in electing **[**the commencement of**]** such member's pension and subject to any other adjustments that such member may elect under this section. The amount of the initial pension calculated after all applicable adjustments shall be the base pension for such member, and for such member's spouse if such member shall elect the optional benefit permitted under subsection 3 of this section, for all purposes of sections 86.1310 to 86.1640. **Payment of any benefits elected under this subsection shall commence as of the first day of the month next following the applicable date with no proration of such benefit for any initial partial month.**

5. A member whose service was terminated on or before August 28, 1999, after five or more years of creditable service, and who permitted such member's accumulated contributions to remain in the pension fund, shall upon application to the retirement board be appointed as a consultant. For services as such consultant, such member shall, beginning the later of August 28, 1999, or the time of such appointment under this subsection, be entitled to elect to receive compensation in such amount and **[**commencing**]** at such time as such member would have been entitled to elect under any of the provisions of subsection 4 of this section if such member had terminated service after August 28, 1999. Such member shall be entitled to the same cost-of-living adjustments following the commencement of such compensation as if such member's compensation had been a base pension.

6. **[**All payments of any pension shall be paid on the first day of each month for that month. The first payment shall be paid on the first day of the first month in which the member's benefit can be determined and processed for payment, and shall include benefits from the date of retirement to the date of such first payment. The final payment due a retired member shall be the payment due on the first day of the month in which such member's death occurs.

7.**]** Notwithstanding any other provisions of sections 86.1310 to 86.1640, any member who is convicted of a felony prior to separation from active service shall not be entitled to any benefit from this retirement system except the return of such member's accumulated contributions.

86.1560. DISABILITY RETIREMENT PENSION, AMOUNT — DEFINITIONS — BOARD TO DETERMINE DISABILITY, PROOF MAY BE REQUIRED. — 1. A member in active service who becomes totally and permanently disabled, as defined in this section, shall be entitled to retire and to receive a base pension determined in accordance with the terms of this section. Members who are eligible and totally and permanently disabled shall receive a disability pension computed as follows:

(1) Duty disability, fifty percent of final compensation as of the date of disability;

(2) Nonduty disability, thirty percent of final compensation as of the date of disability, provided that a nonduty disability pension shall not be available to any member with less than ten years creditable service;

(3) In no event shall the disability pension be less than the amount to which the member would be entitled as a pension if the member retired on the same date with equivalent age and creditable service.

2. **[**The final payment due a member receiving a disability pension shall be the payment due on the first day of the month in which such member's death occurs. Such member's surviving spouse, if any, shall be entitled to such benefits as may be provided under section 86.1610.

3.**]** For purposes of sections 86.1310 to 86.1640, the following terms shall mean:

(1) "Duty disability", total and permanent disability directly due to and caused by actual performance of employment with the police department;

(2) "Nonduty disability", total and permanent disability arising from any other cause than duty disability;

(3) "Total and permanent disability", a state or condition which presumably prevents for the rest of a member's life the member's engaging in any occupation or performing any work for remuneration or profit. Such disability, whether duty or nonduty, must not have been caused by the member's own negligence or willful self-infliction.

[4.**] 3.** The retirement board in its sole judgment shall determine whether the status of total and permanent disability exists. Its determination shall be binding and conclusive. The retirement board shall rely upon the findings of a medical board of three physicians, and shall procure the written recommendation of at least one member thereof in each case considered by the retirement board. The medical board shall be appointed by the retirement board and expense for such examinations as are required shall be paid from funds of the retirement system.

[5.**] 4.** From time to time, the retirement board shall have the right to require proof of continuing disability which may include further examination by the medical board. Should the retirement board determine that disability no longer exists, it shall terminate the disability pension. A member who immediately returns to work with the police department shall again earn creditable service beginning on the first day of such return. Creditable service prior to disability retirement shall be reinstated. A member who does not return to work with the police department shall be deemed to have terminated employment at the time disability retirement commenced; but in calculating any benefits due upon such presumption, the retirement system shall receive credit for all amounts paid such member during the period of disability, except that such member shall not be obligated in any event to repay to the retirement system any amounts properly paid during such period of disability.

86.1600. SUPPLEMENTAL RETIREMENT BENEFIT, AMOUNT, COST-OF-LIVING ADJUSTMENTS — SPECIAL CONSULTANT, COMPENSATION — COST-OF-LIVING ADJUSTMENTS, RULEMAKING AUTHORITY — MEMBER DEFINED. — 1. Any member who retires subsequent to August 28, 1997, and on or before August 28, 2007, with entitlement to a pension under sections 86.1310 to 86.1640, and any member who retires subsequent to August 28, 2007, with entitlement to a pension under sections 86.1310 to 86.1640 and who either has at least fifteen years of creditable service or is retired under subsection 1 of section 86.1560, shall receive **[**each month**]**, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which

such member may be entitled under sections 86.1310 to 86.1640, a supplemental retirement benefit of fifty dollars per month. The amount of such supplemental retirement benefit may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

2. Any member who was retired on or before August 28, 1997, and is receiving retirement benefits from the retirement system shall, upon application to the retirement board, be retained as a consultant, and for such services such member shall receive **[**each month**]**, in addition to such member's base pension and cost-of-living adjustments thereto under section 86.1590, and in addition to any other compensation or benefit to which such member may be entitled under sections 86.1310 to 86.1640, a supplemental compensation in the amount of fifty dollars per month. This appointment as a consultant shall in no way affect any member's eligibility for retirement benefits under the provisions of sections 86.1310 to 86.1640, or in any way have the effect of reducing retirement benefits otherwise payable to such member. The amount of such supplemental compensation under this subsection may be adjusted by cost-of-living adjustments determined by the retirement board not more frequently than annually.

3. In determining and granting the cost-of-living adjustments under this section, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board. The retirement board shall not be required to prorate the initial adjustment to any supplemental retirement benefit or any supplemental compensation under this section for any member.

4. For purposes of subsections 1 and 2 of this section, the term "member" shall include a surviving spouse who is entitled to a benefit under sections 86.1310 to 86.1640, who shall be deemed to have retired for purposes of this section on the date of retirement of the member of whom such person is the surviving spouse or on the date of death of such member if such member died prior to retirement; provided, that no benefits shall be payable under this section to the surviving spouse of any member who died while in active service after August 28, 2007, unless such death occurred in the line of duty or course of employment or as the result of an injury or illness incurred in the line of duty or course of employment or unless such member had at least fifteen years of creditable service. The surviving spouse of a member who died in service after August 28, 2007, whose death occurred in the line of duty or course of employment or as the result of an injury or illness incurred in the line of duty or course of employment shall be entitled to benefits under subsection 1 of this section without regard to such member's years of creditable service. All benefits payable to a surviving spouse under this section shall be in addition to all other benefits to which such surviving spouse may be entitled under other provisions of sections 86.1310 to 86.1640. Any qualifying surviving spouse of a member who dies while entitled to payments under this section shall succeed to the full amount of payment under this section to which such member was entitled at the time of such member's death, including any cost-of-living adjustments received by such member in the payment under this section prior to such member's death.

5. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment under this section is granted. If at any time the retirement system ceases to be actuarially sound, supplemental retirement benefit payments under subsection 1 of this section and supplemental compensation payments as a consultant under subsection 2 of this section shall continue as adjusted by increases or decreases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

86.1610. DEATH OF MEMBER IN SERVICE, BENEFIT TO BE RECEIVED — DEATH OF MEMBER AFTER RETIREMENT, BENEFIT TO BE RECEIVED — SURVIVING SPOUSE BENEFITS.

— 1. Upon receipt of the proper proofs of death of a member in service for any reason whatsoever, the following amounts shall be payable subject to subsection 4 of this section, and if a pension shall be elected, the initial amount thereof shall be the base pension for such surviving spouse:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in one lump sum, the amount of the member's accumulated contributions. If there is no surviving spouse, the member's accumulated contributions shall be paid **[**to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate, and such payment shall be full and final settlement for all amounts due from the retirement system with respect to such member except as provided in subsection 1 of section 86.1620**] as provided in subsection 6 of section 86.1420**;

(2) If the member has at least five but fewer than twenty years of creditable service, the member's surviving spouse may elect the lump sum settlement in subdivision (1) of this subsection or a pension. Such pension shall be fifty percent of the member's accrued pension at date of death as computed in subdivision (1) of subsection 1 of section 86.1540, commencing **[**on the later of the day after the member's death, or the date which would have been the member's earliest possible retirement date permitted under subsection 2 of section 86.1540**] as provided in subsection 3 of section 86.1420**;

(3) If the member has at least twenty years of creditable service, the member's surviving spouse may elect any one of:

(a) The lump sum settlement in subdivision (1) of this subsection;

(b) The pension as computed in subdivision (2) of this subsection; or

(c) A pension in the monthly amount determined on a joint and survivor's basis from the actuarial value of the member's accrued annuity at date of death;

(4) Any death of a retired member occurring before the first payment of the retirement pension shall be deemed to be a death prior to retirement;

(5) For the surviving spouse of a member who died in service after August 28, 2001, benefits payable under subsection 1 of this section shall continue for the lifetime of such surviving spouse without regard to remarriage.

2. Upon death of a member after retirement who has not elected the optional annuity permitted under subsection 3 of section 86.1540, the surviving spouse shall receive a base pension payable for life, equaling fifty percent of the member's base pension, as of the member's retirement date, subject to the following:

(1) No surviving spouse of a member who retires after August 28, 2001, shall be entitled to receive any benefits under sections 86.1310 to 86.1640 unless such spouse was married to the member at the time of the member's retirement; and

(2) Any surviving spouse who was married to such a member at the time of the member's retirement shall be entitled to all benefits for surviving spouses under sections 86.1310 to 86.1640 for the life of such surviving spouse without regard to remarriage.

3. In the case of any member who, prior to August 28, 2001, died in service or retired, the surviving spouse who would qualify for benefits under subsection 1 or 2 of this section but for remarriage, and has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application be appointed by the retirement board as a consultant. For services as such consultant, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received under sections 86.1310 to 86.1640 in the absence of such remarriage.

4. Any beneficiary of benefits under sections 86.1310 to 86.1640 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member, except that any surviving spouse for whom an election has been made for an optional benefit under subsection 3 of section 86.1540 shall be entitled to every optional benefit for which such surviving spouse has so contracted.

[5. The final payment due any surviving beneficiary shall be the payment due on the first day of the month in which such beneficiary dies or otherwise ceases to be entitled to benefits under this section.

6. If there is no surviving spouse, payment of the member's accumulated contributions less the amount of any prior payments from the retirement system to the member or to any beneficiary of the member shall be made to the member's designated beneficiary or, if none, to the personal representative of the member's estate.**]**

86.1620. FUNERAL BENEFITS, AMOUNT. — 1. **[**(1)**]** Upon the death after August 28, 2003, of a member in service, or upon the death of a member who was in service on or after August 28, 2003, and who dies after having been retired and pensioned, there shall be paid, in addition to all other benefits, a funeral benefit of one thousand dollars to the person or entity who provided or paid for the funeral services for such member.

[(2)**] 2.** Any member who was retired on or before August 28, 2003, and is receiving retirement benefits from the retirement system, upon application to the retirement board, shall be appointed by the retirement board as a consultant for the remainder of such member's life. Upon the death of such member, there shall be paid, in addition to all other benefits, a funeral benefit of one thousand dollars to the person or entity who provided or paid for the funeral services for such member.

[2. If no benefits are otherwise payable to a surviving spouse of a deceased member, the member's accumulated contributions, to any extent not fully paid to such member prior to the member's death or to the surviving spouse of such member, shall be paid in one lump sum to the member's named beneficiary or, if none, to the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.**]**

87.127. QUALIFIED GOVERNMENT PLAN, RETIREMENT PLAN INTENDED TO BE. — A retirement plan under sections 87.120 to 87.370 is intended to be a qualified governmental plan under the provisions of applicable federal law. The benefits and conditions of the plan shall be interpreted and the system shall be operated to ensure that the system meets the federal qualification requirements.

87.205. ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE. — 1. Upon retirement for accidental disability **before August 28, 2011**, a member shall receive seventy-five percent of the pay then provided by law for the highest step in the range of salary for the title or rank held by such member at the time of such retirement unless the member is permanently and totally incapacitated from performing any work, occupation or vocation of any kind whatsoever and is continuously confined to the member's home except for visits to obtain medical treatment, in which event the member may receive, in the discretion of the board of trustees, a retirement allowance in an amount not exceeding the member's rate of compensation as a firefighter in effect as of the date the allowance begins.

2. Anyone who has retired pursuant to the provisions of section 87.170 and has been reinstated pursuant to subsection 2 of section 87.130 who subsequently becomes disabled, as provided in section 87.200, shall receive a total benefit which is the higher of either the disability pension or the service pension.

3. Upon retirement for accidental disability on or after August 28, 2011, based on conditions of the heart, lungs, or cancer or based on permanent and total disability which will prevent the member from obtaining employment elsewhere, as determined by the board of trustees based on medical evidence presented by the retirement system's physicians, a member shall receive, regardless of his or her number of years of creditable service, seventy-five percent of the earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement.

4. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, a member shall receive a base pension equal to twenty-five percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement.

5. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, the member may elect to receive an education allowance in an amount not to exceed the tuition for a state resident at the University of Missouri-St. Louis. The accidentally disabled member shall enroll in a college, university, community college, or vocational or technical school at the first opportunity after the accidentally disabled member was retired and shall receive such educational allowance in the form of reimbursement upon proof of payment to such institution. The education allowance described in this subsection shall cease when the accidentally disabled member ceases to be a full-time student, fails to provide proof of achievement of a grade point average of two on a four-point scale or the equivalent on another scale for each academic term, or if the accidentally disabled member is restored to active service as a firefighter, but in no event shall such education allowance be available for more than five years after the member is retired under section 87.200.

6. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, in addition to the base pension provided for in subsection 4 of this section and the education allowance provided for in subsection 5 of this section, members with twenty-five years or less of creditable service shall receive an additional accidental retirement pension equal to two and three-fourths percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of retirement for each year of creditable service equal to or greater than ten years but not more than twenty-five years.

7. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, in addition to the base pension provided for in subsection 4 of this section and the additional accidental retirement pension provided for in subsection 6 of this section, for members with twenty-five years or less of creditable service, then during such time that the disabled member is a full-time student in a college, university, community college, or vocational or technical school and is receiving the educational allowance provided for in subsection 5 of this section, such member shall also receive a supplemental disability retirement pension in the amount necessary so that his or her total accidental disability retirement pension, excluding the education allowance, shall be equal to one hundred percent of the earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement. In no event shall such supplemental accidental disability pension be paid for a period more than five years after the member is retired under section 87.200.

8. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, in addition to the base pension provided for in subsection 4 of this section and the education allowance provided for in subsection 5 of this section, for members with more than twenty-five years of creditable service, such member shall also receive an additional pension equal to fifty percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement.

9. Notwithstanding any other provisions in this section, upon retirement for accidental disability, other than as provided in subsection 3 of this section, on or after August 28, 2011, a member with more than twenty years of creditable service but not more than twenty-five years of creditable service may waive the right to receive the education allowance provided for in subsection 5 of this section, the right to additional pension retirement allowance provided for in subsection 6 of this section, and the right to

receive the supplemental disability retirement pension provided for in subsection 7 of this section and may elect to receive instead in addition to the accidental disability retirement base pension as provided for in subsection 4 of this section an additional pension from the date of such member's retirement equal to forty percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement. Any such election shall be made prior to such member's receipt of his or her first accidental disability pension payment.

87.207. COST-OF-LIVING INCREASE, HOW DETERMINED. — The following allowances due under the provisions of sections 87.120 to 87.371 of any member who retired from service shall be increased annually, as approved by the board of trustees beginning with the first increase in the October following his or her retirement and subsequent increases in each October thereafter, at the rates designated:

(1) With a retirement service allowance or ordinary disability allowance:

(a) One and one-half percent per year, compounded each year, up to age sixty for those retiring with twenty to twenty-four years of service,

(b) Two and one-fourth percent per year, compounded each year, up to age sixty for those retiring with twenty-five to twenty-nine years of service,

(c) Three percent per year, compounded each year, up to age sixty for those retiring with thirty or more years of service,

(d) After age sixty, five percent per year for five years;

(2) With an accidental disability allowance, three percent per year, compounded each year, up to age sixty, then five percent per year for five years. **Provided, however, for accidental disability on or after August 28, 2011, for reasons other than provided in subsection 3 of section 87.205, unless a member has more than twenty-five years of creditable service, the accidental disability allowance shall only increase at a rate of one percent per year, compounded each year, up to age sixty, then five percent per year for five years. For accidental disability on or after August 28, 2011, for reasons other than provided in subsection 3 of section 87.205, if a member has more than twenty-five years of creditable service, the accidental disability allowance shall only increase at a rate of two and one-fourth percent per year, compounded each year, up to age sixty, then five percent per year for five years.**

100.273. DEVELOPMENT FINANCE BOARD EMPLOYEES ARE STATE EMPLOYEES ELIGIBLE FOR STATE RETIREMENT — NOT ELIGIBLE FOR STATE HEALTH INSURANCE PLAN UNLESS REQUESTED BY BOARD — NO PURCHASE OF CREDITABLE SERVICE, EXCEPTION. — 1. Any person employed by the Missouri development finance board on or after September 1, 2011, in a full-time position shall be both a state employee and a member of the Missouri state employees' retirement system, except that such state employee shall not have coverage under the Missouri consolidated health care plan, unless such coverage is requested by the Missouri development finance board and approved by the board of trustees of the Missouri consolidated health care plan.

2. Employees described in subsection 1 of this section may not purchase and receive creditable or credited service in the Missouri state employees' retirement system for prior full-time service with the Missouri development finance board except as follows: such employees shall be permitted to purchase all or a portion of their creditable or credited service in the Missouri state employees' retirement system up to the actual years of prior full-time service with the Missouri development finance board. The cost of the full amount of such creditable or credited service allowed shall be an amount determined to equal the actuarial accrued liability at the time of the purchase to the extent the system's actuarial accrued liability was funded as of the most recent actuarial valuation. If an employee pays less than the full amount so determined, the creditable or credited service

granted shall be prorated accordingly. Employees may purchase and receive such creditable or credited service at any time on or after September 1, 2011, but before applying for retirement, and may do so notwithstanding any vesting requirement to the contrary. Any employee who purchases such creditable or credited service and subsequently terminates employment prior to becoming vested in the system may, upon proper application, receive a refund equal to the purchase amount.

104.603. RECIPROCAL TRANSFER OF CREDITABLE SERVICE, WHEN. — 1. Effective with transfers of service between the Missouri department of transportation and highway patrol employees' retirement system and the Missouri state employees' retirement system that occur on or after September 1, 2011, upon a reciprocal transfer of creditable or credited service pursuant to section 104.602 or subsection 8 of section 104.1021, the sending system from which the service is transferred shall pay the receiving system to which the service is transferred the present value of the accrued benefit as determined pursuant to subsection 2 of this section.

2. For purposes of this section, the present value of the accrued benefit shall be determined using the actuarial assumptions of the sending system used in that system's last regular valuation assuming active member status and using the unit credit actuarial cost method. However, in no event shall the payment amount be less than the sum of the member's accumulated contributions and interest plus any purchased service payments from the member held on deposit by the sending system. If the member had received a refund of accumulated contributions from the sending system and forfeited service credit with that system, the member would need to reestablish that service with the sending system by again becoming an active member of a system covered by this chapter and satisfying requirements otherwise stipulated for reestablishing service credit.

3. The service transfer shall not be deemed completed until the sending system makes payment to the receiving system as prescribed in this section. Payments shall be made within ninety days of the date that a completed transfer request is submitted by a member.

4. When the transfer payment includes an amount identified as corresponding to a member's accumulated contributions, the accumulated contributions portion shall be identified, and further, the accumulated contributions balance as of the preceding July first shall be identified and the receiving system shall be responsible for crediting interest according to the terms of the receiving plan.

5. The systems shall coordinate their plan administration for reciprocal transfers to give full effect to the transfer including the transfer and acceptance of corresponding division of benefit orders.

6. The member or survivor obtaining a reciprocal transfer of service covered by this section shall satisfy all requirements under section 104.602 or subsection 8 of section 104.1021 to obtain a transfer of credited or creditable service and shall satisfy the requirements under section 104.1091 with the receiving system to reestablish forfeited service previously accrued at either system.

105.661. ALL RETIREMENT PLANS TO PREPARE FINANCIAL REPORT, CONTENT AUDIT BY STATE AUDITOR AND JOINT COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT — RULES SUBMITTED TO JOINT COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT, WHEN — REPORT REQUIRED. — 1. Each plan shall annually prepare and have available as public information a comprehensive annual financial report showing the financial condition of the plan as of the end of the plan's fiscal year. The report shall contain, but not be limited to, detailed financial statements prepared in accordance with generally accepted accounting principles for public employee retirement systems including an independent auditors report thereon, prepared by a certified public accountant or a firm of certified public accountants, a detailed summary of the plan's most recent actuarial valuation including a certification letter from the actuary and a

summary of actuarial assumptions and methods used in such valuation, a detailed listing of the investments, showing both cost and market value, held by the plan as of the date of the report together with a detailed statement of the annual rates of investment return from all assets and from each type of investment, a detailed list of investments acquired and disposed of during the fiscal year, a listing of the plan's board of trustees or responsible administrative body and administrative staff, a detailed list of administrative expenses of the plan including all fees paid for professional services, a detailed list of brokerage commissions paid, a summary plan description, and such other data as the plan shall deem necessary or desirable for a proper understanding of the condition of the plan. In the event a plan is unable to comply with any of the disclosure requirements outlined above, a detailed statement must be included in the report as to the reason for such noncompliance.

2. Any rule or portion of rule promulgated by any plan pursuant to the authority of chapter 536, or of any other provision of law, shall be submitted to the joint committee on public employee retirement prior to or concurrent with the filing of a notice of proposed rulemaking with the secretary of state's office pursuant to section 536.021. The requirement of this subsection is intended solely for the purpose of notifying the joint committee on public employee retirement with respect to a plan's proposed rulemaking so that the joint committee on public employee retirement has ample opportunity to submit comments with respect to such proposed rulemaking in accordance with the normal process. Any plan not required to file a notice of proposed rulemaking with the secretary of state's office shall submit any proposed rule or portion of a rule to the joint committee on public employee retirement within ten days of its promulgation.

3. A copy of the comprehensive annual financial report as outlined in subsection 1 of this section shall be forwarded within six months of the end of the plan's fiscal year to the state auditor and the joint committee on public employee retirement.

4. Each defined benefit plan shall submit a quarterly report regarding the plan's investment performance to the joint committee on public employee retirement in the form and manner requested by the committee. If the plan fails to submit this report, the committee may subpoena witnesses, take testimony under oath, and compel the production of records regarding this information, pursuant to its authority under section 21.561.

105.915. BOARD TO ADMINISTER PLAN — WRITTEN AGREEMENT REQUIRED — IMMUNITY FROM LIABILITY, WHEN — AUTOMATIC DESIGNATION OF SURVIVING SPOUSE AS PRIMARY BENEFICIARY, WHEN. — 1. The board of trustees of the Missouri state employees' retirement system shall administer the deferred compensation fund for the employees of the state of Missouri that was previously administered by the deferred compensation commission, as established in section 105.910, prior to August 28, 2007. The board shall be vested with the same powers that it has under chapter 104 to enable it and its officers, employees, and agents to administer the fund under sections 105.900 to 105.927. Two of the commissioners serving on the deferred compensation commission immediately prior to the transfer made to the board under section 105.910 shall serve as ex officio members of the board solely to participate in the duties of administering the deferred compensation fund. One such commissioner serving as an ex officio board member shall be a member of the house of representatives selected by the speaker of the house of representatives, and such commissioner's service on the board shall cease on December 31, 2009. The other commissioner serving as an ex officio board member shall be the chairman of the deferred compensation commission immediately prior to the transfer made to the board under section 105.910, and such commissioner's service on the board shall cease December 31, 2008.

2. **Except as provided in this subsection,** participation in such plan shall be by a specific written agreement between state employees and the state, which shall provide for the deferral of such amounts of compensation as requested by the employee subject to any limitations imposed under federal law. Participating employees must authorize that such deferrals be made from their

wages for the purpose of participation in such program. **An election to defer compensation shall be made before the beginning of the month in which the compensation is paid. Contributions shall be made for payroll periods occurring on or after the first day of the month after the election is made. Each employee eligible to participate in the plan hired on or after July 1, 2012, shall be enrolled in the plan automatically and his or her employer shall, in accordance with the plan document, withhold and contribute to the plan an amount equal to one percent of eligible compensation received on and after the date of hire, unless the employee elects not to participate in the plan within the first thirty days of employment, and in that event, any amounts contributed and earnings thereon will be refunded by the plan to the employee pursuant to the procedure contained in the plan documents. Employees who are employed by a state college or university shall not be automatically enrolled but may elect to participate in the plan and make contributions in accordance with the terms of the plan. Employees who are enrolled automatically may elect to change the contribution rate in accordance with the terms of the plan. Employees who elect not to participate in the plan may at a later date elect to participate in the plan and make contributions in accordance with the terms of the plan.** All assets and income of such fund shall be held in trust by the board for the exclusive benefit of participants and their beneficiaries. Assets of such trust**, and the trust established pursuant to section 105.927,** may be pooled solely for investment management purposes with assets of the trust established under section 104.320.

3. Notwithstanding any other provision of sections 105.900 to 105.927, funds held for the state by the board in accordance with written deferred compensation agreements between the state and participating employees may be invested in such investments as are deemed appropriate by the board. All administrative costs of the program described in this section, including staffing and overhead expenses, may be paid out of assets of the fund, which may reduce the amount due participants in the fund. Such investments shall not be construed to be a prohibited use of the general assets of the state.

4. Investments offered under the deferred compensation fund for the employees of the state of Missouri shall be made available at the discretion of the board.

5. The board and employees of the Missouri state employees' retirement system shall be immune from suit and shall not be subject to any claim or liability associated with any administrative actions or decisions made by the commission with regard to the deferred compensation program prior to the transfer made to the board under section 105.910.

6. The board and employees of the system shall not be liable for the investment decisions made or not made by participating employees as long as the board acts with the same skill, prudence, and diligence in the selection and monitoring of providers of investment products, education, advice, or any default investment option, under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims.

7. The system shall be immune from suit and shall not be subject to any claim or liability associated with the administration of the deferred compensation fund by the board and employees of the system.

8. Beginning on or after September 1, 2011, if a participant under the deferred compensation plan or the plan established under section 105.927 is married on the date of his or her death, the participant's surviving spouse shall be automatically designated as the primary beneficiary under both plans, unless the surviving spouse consented in writing, witnessed by a notary public, to allow the participant to designate a nonspouse beneficiary. As used in this subsection, "surviving spouse" means the spouse as defined pursuant to section 104.012 to whom the participant is lawfully married on the date of death of the participant, provided that a former spouse shall be treated as the surviving spouse of the participant to the extent provided under a judgment, decree, or order that relates to child support, alimony payments, or marital property rights made under

Missouri domestic relations law that creates or recognizes the existence of such former spouse's right to receive all or a portion expressed as a stated dollar amount or specific percentage stated in integers of the benefits payable from such plan upon the death of the participant. This subsection shall not apply to beneficiary designations made prior to September 1, 2011.

9. The board may adopt and amend plan documents to change the terms and conditions of the deferred compensation plan and the plan established under section 105.927 that are consistent with federal law.

105.927. STATE'S CONTRIBUTION TO PARTICIPANTS IN DEFERRED COMPENSATION PROGRAM. — [1.**]** The treasurer of the state of Missouri shall credit an amount not to exceed seventy-five dollars per month, to a plan established pursuant to the provisions of the Internal Revenue Code Section 401(a) for each **[**qualified**]** participant in the state's deferred compensation program; provided that funds to be credited to each **[**qualified**]** participant's account shall not exceed the amount appropriated by the general assembly for each **[**qualified**]** participant. **Such funds may be credited to each participant directly by a state agency if that agency's payroll is not issued through the treasurer of the state of Missouri.** Funds so credited shall be held, administered and invested as provided in sections 105.900 to 105.925 and the plan document adopted for the administration of such contributions.

[2. For purposes of this section, "qualified participant" means an employee of the state of Missouri who is making continuous deferrals of at least twenty-five dollars per month to the deferred compensation program and has been an employee of the state of Missouri for at least twelve consecutive months immediately preceding the commencement of any amount credited pursuant to this section. The amount credited on behalf of a qualified participant pursuant to this section shall not exceed the amount that the qualified participant contributes to his or her deferred compensation plan.**]**

Approved July 8, 2011

HB 294 [SS#2 SCS HCS HB 294, 123, 125, 113, 271 & 215]

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 firearms, ammunition, and concealed carry endorsements

AN ACT to repeal sections 50.535, 302.181, 407.500, 407.505, 571.020, 571.030, 571.101, 571.107, 571.111, and 571.117, RSMo, and to enact in lieu thereof thirteen new sections relating to firearms, with penalty provisions and a contingent effective date for certain sections.

SECTION

A. Enacting clause.
50.535. County sheriff's revolving fund established — fees deposited into, use of moneys — no prior approval for expenditures required — authorized payment of certain expenses.
144.064. Firearms or ammunition, limitation on sales tax levied.
302.181. Form of license — information shown, exception — photograph not shown, when — temporary license — nondriver's license, fee, duration — exception — rules, adoption, suspension and revocation procedure.
571.020. Possession — manufacture — transport — repair — sale of certain weapons a crime — exceptions — penalties.
571.030. Unlawful use of weapons — exceptions — penalties.
571.063. Fraudulent purchase of a firearm, crime of — definitions — penalty — exceptions.
571.085. Purchase in another state by Missouri residents, permitted when.

571.087. Purchase in Missouri by nonresident, permitted when.
571.101. Concealed carry endorsements, application requirements — approval procedures — issuance of certificates, when — record-keeping requirements — fees.
571.107. Endorsement does not authorize concealed firearms, where — penalty for violation.
571.111. Firearms training requirements — safety instructor requirements — penalty for violations.
571.117. Revocation procedure for ineligible certificate holders — sheriff's immunity from liability, when.
1. Regulation by municipalities permitted--no prohibition at shooting ranges.
407.500. Missouri residents may purchase rifles and shotguns in contiguous states, when.
407.505. Residents of contiguous states may purchase rifles and shotguns in Missouri, when.
B. Contingent effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 50.535, 302.181, 407.500, 407.505, 571.020, 571.030, 571.101, 571.107, 571.111, and 571.117, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 50.535, 144.064, 302.181, 571.020, 571.030, 571.063, 571.085, 571.087, 571.101, 571.107, 571.111, 571.117, and 1, to read as follows:

50.535. COUNTY SHERIFF'S REVOLVING FUND ESTABLISHED — FEES DEPOSITED INTO, USE OF MONEYS — NO PRIOR APPROVAL FOR EXPENDITURES REQUIRED — AUTHORIZED PAYMENT OF CERTAIN EXPENSES. — 1. Notwithstanding the provisions of sections 50.525 to 50.745, the fee collected pursuant to subsections 10 and 11 of section 571.101 shall be deposited by the county treasurer into a separate interest-bearing fund to be known as the "County Sheriff's Revolving Fund" to be expended at the direction of the county or city sheriff or his or her designee as provided in this section.

2. No prior approval of the expenditures from this fund shall be required by the governing body of the county or city not within a county, nor shall any prior audit or encumbrance of the fund be required before any expenditure is made by the sheriff from this fund. This fund shall only be used by law enforcement agencies for the purchase of equipment, to provide training, and to make necessary expenditures to process applications for concealed carry endorsements or renewals, including but not limited to the purchase of equipment, **information and data exchange,** training, fingerprinting and background checks, employment of additional personnel, and any expenditure necessitated by an action under section 571.114 or 571.117. If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended balance shall remain in said fund and the balance shall be kept in said fund to accumulate from year to year. This fund may be audited by the state auditor's office or the appropriate auditing agency.

3. Notwithstanding any provision of this section to the contrary, the sheriff of every county, regardless of classification, is authorized to pay, from the sheriff's revolving fund, all reasonable and necessary costs and expenses for activities or services occasioned by compliance with sections 571.101 to 571.121. Such was the intent of the general assembly in original enactment of this section and sections 571.101 to 571.121, and it is made express by this section in light of the decision in Brooks v. State of Missouri, (Mo. Sup. Ct. February 26, 2004). The application and renewal fees to be charged pursuant to section 571.101 shall be based on the sheriff's good faith estimate, made during regular budgeting cycles, of the actual costs and expenses to be incurred by reason of compliance with sections 571.101 to 571.121. If the maximum fee permitted by section 571.101 is inadequate to cover the actual reasonable and necessary expenses in a given year, and there are not sufficient accumulated unexpended funds in the revolving fund, a sheriff may present specific and verified evidence of the unreimbursed expenses to the office of administration, which upon certification by the attorney general shall reimburse such sheriff for those expenses from an appropriation made for that purpose.

4. If pursuant to subsection 12 of section 571.101, the sheriff of a county of the first classification designates one or more chiefs of police of any town, city, or municipality within such county to accept and process applications for certificates of qualification to obtain a

concealed carry endorsement, then that sheriff shall reimburse such chiefs of police, out of the moneys deposited into this fund, for any reasonable expenses related to accepting and processing such applications.

144.064. FIREARMS OR AMMUNITION, LIMITATION ON SALES TAX LEVIED. — No sales tax levied under this chapter on any firearms or ammunition shall be levied at a rate that is higher than the sales tax levied under this chapter or any other excise tax levied on any sporting goods or equipment or any hunting equipment.

302.181. FORM OF LICENSE — INFORMATION SHOWN, EXCEPTION — PHOTOGRAPH NOT SHOWN, WHEN — TEMPORARY LICENSE — NONDRIVER'S LICENSE, FEE, DURATION — EXCEPTION — RULES, ADOPTION, SUSPENSION AND REVOCATION PROCEDURE. — 1. The license issued pursuant to the provisions of sections 302.010 to 302.340 shall be in such form as the director shall prescribe, but the license shall be a card made of plastic or other comparable material. All licenses shall be manufactured of materials and processes that will prohibit, as nearly as possible, the ability to reproduce, alter, counterfeit, forge, or duplicate any license without ready detection. All licenses shall bear the licensee's Social Security number, if the licensee has one, and if not, a notarized affidavit must be signed by the licensee stating that the licensee does not possess a Social Security number, or, if applicable, a certified statement must be submitted as provided in subsection 4 of this section. The license shall also bear the expiration date of the license, the classification of the license, the name, date of birth, residence address including the county of residence or a code number corresponding to such county established by the department, and brief description and colored photograph or digitized image of the licensee, and a facsimile of the signature of the licensee. The director shall provide by administrative rule the procedure and format for a licensee to indicate on the back of the license together with the designation for an anatomical gift as provided in section 194.240 the name and address of the person designated pursuant to sections 404.800 to 404.865 as the licensee's attorney in fact for the purposes of a durable power of attorney for health care decisions. No license shall be valid until it has been so signed by the licensee. If any portion of the license is prepared by a private firm, any contract with such firm shall be made in accordance with the competitive purchasing procedures as established by the state director of the division of purchasing. For all licenses issued or renewed after March 1, 1992, the applicant's Social Security number shall serve as the applicant's license number. Where the licensee has no Social Security number, or where the licensee is issued a license without a Social Security number in accordance with subsection 4 of this section, the director shall issue a license number for the licensee and such number shall also include an indicator showing that the number is not a Social Security number.

2. All film involved in the production of photographs for licenses shall become the property of the department of revenue.

3. The license issued shall be carried at all times by the holder thereof while driving a motor vehicle, and shall be displayed upon demand of any officer of the highway patrol, or any police officer or peace officer, or any other duly authorized person, for inspection when demand is made therefor. Failure of any operator of a motor vehicle to exhibit his or her license to any duly authorized officer shall be presumptive evidence that such person is not a duly licensed operator.

4. The director of revenue shall issue a commercial or noncommercial driver's license without a Social Security number to an applicant therefor, who is otherwise qualified to be licensed, upon presentation to the director of a certified statement that the applicant objects to the display of the Social Security number on the license. The director shall assign an identification number, that is not based on a Social Security number, to the applicant which shall be displayed on the license in lieu of the Social Security number.

5. The director of revenue shall not issue a license without a facial photograph or digital image of the license applicant, except as provided pursuant to subsection 8 of this section. A

photograph or digital image of the applicant's full facial features shall be taken in a manner prescribed by the director. No photograph or digital image will be taken wearing anything which cloaks the facial features of the individual.

6. The department of revenue may issue a temporary license or a full license without the photograph or with the last photograph or digital image in the department's records to members of the armed forces, except that where such temporary license is issued it shall be valid only until the applicant shall have had time to appear and have his or her picture taken and a license with his or her photograph issued.

7. The department of revenue shall issue upon request a nondriver's license card containing essentially the same information and photograph or digital image, except as provided pursuant to subsection 8 of this section, as the driver's license upon payment of six dollars. All nondriver's licenses shall expire on the applicant's birthday in the sixth year after issuance. A person who has passed his or her seventieth birthday shall upon application be issued a nonexpiring nondriver's license card. **Notwithstanding any other provision of this chapter, a nondriver's license containing a concealed carry endorsement shall expire three years from the date the certificate of qualification was issued pursuant to section 571.101. The fee for nondriver's licenses issued for a period exceeding three years is six dollars or three dollars for nondriver's licenses issued for a period of three years or less.** The nondriver's license card shall be used for identification purposes only and shall not be valid as a license.

8. If otherwise eligible, an applicant may receive a driver's license or nondriver's license without a photograph or digital image of the applicant's full facial features except that such applicant's photograph or digital image shall be taken and maintained by the director and not printed on such license.

In order to qualify for a license without a photograph or digital image pursuant to this section the applicant must:

(1) Present a form provided by the department of revenue requesting the applicant's photograph be omitted from the license or nondriver's license due to religious affiliations. The form shall be signed by the applicant and another member of the religious tenant verifying the photograph or digital image exemption on the license or nondriver's license is required as part of their religious affiliation. The required signatures on the prescribed form shall be properly notarized;

(2) Provide satisfactory proof to the director that the applicant has been a U.S. citizen for at least five years and a resident of this state for at least one year, except that an applicant moving to this state possessing a valid driver's license from another state without a photograph, shall be exempt from the one-year state residency requirement. The director may establish rules necessary to determine satisfactory proof of citizenship and residency pursuant to this section;

(3) Applications for a driver's license or nondriver's license without a photograph or digital image must be made in person at a license office determined by the director. The director is authorized to limit the number of offices that may issue a driver's or nondriver's license without a photograph or digital image pursuant to this section.

9. The department of revenue shall make available, at one or more locations within the state, an opportunity for individuals to have their full facial photograph taken by an employee of the department of revenue, or their designee, who is of the same sex as the individual being photographed, in a segregated location.

10. Beginning July 1, 2005, the director shall not issue a driver's license or a nondriver's license for a period that exceeds an applicant's lawful presence in the United States. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant and establish the duration of any driver's license or nondriver's license issued under this section.

11. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it is promulgated pursuant to the provisions of chapter 536.

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

(1) An explosive weapon;

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

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

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

[(5) A short barreled rifle or shotgun;

(6) A firearm silencer;

(7)**] (4)** A switchblade knife;

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

[(9)**] (6)** Knuckles**; or**

(7) Any of the following in violation of federal law:

(a) A machine gun;

(b) A short barreled rifle or shotgun; or

(c) A firearm silencer.

2. A person does not commit a crime pursuant to this section if his conduct **involved any of the items in subdivisions (1) to (6) of subsection 1, the item was possessed in conformity with any applicable federal law, and the conduct**:

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

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

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

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

(5) Was incident to **[**dealing with**] using** the weapon **[**solely as a curio, ornament, or keepsake, or to using it**]** in a manner reasonably related to a lawful dramatic performance**[**; but if the weapon is a type described in subdivision (1) or (4) of subsection 1 of this section it must be in such a nonfunctioning condition that it cannot readily be made operable. No short barreled rifle, short barreled shotgun, machine gun, or firearm silencer may be possessed, manufactured, transported, repaired or sold as a curio, ornament, or keepsake, unless such person is an importer, manufacturer, dealer, or collector licensed by the Secretary of the Treasury pursuant to the Gun Control Act of 1968, U.S.C., Title 18, or unless such firearm is an antique firearm as defined in subsection 3 of section 571.080, or unless such firearm has been designated a collectors item by the Secretary of the Treasury pursuant to the U.S.C., Title 26, Section 5845(a)**]**.

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

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

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

(2) Sets a spring gun; or

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

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

(5) Has a firearm or projectile weapon readily capable of lethal use on his or her person, while he or she is intoxicated, and handles or otherwise uses such firearm or projectile weapon in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless acting in self-defense;

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

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

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

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

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

2. **Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to the persons described in this subsection, regardless of whether such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties except as otherwise provided in this subsection.** Subdivisions **[**(1),**]** (3), (4), (6), (7), **[**(8),**] and** (9) **[**and (10)**]** of subsection 1 of this section shall not apply to or affect any of the following **persons,** when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties**, except as otherwise provided in this subsection**:

(1) All state, county and municipal peace officers who have completed the training required by the police officer standards and training commission pursuant to sections 590.030 to 590.050 and who possess the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in subsection **[**10**] 11** of this section, and who carry the identification defined in subsection **[**11**] 12** of this section, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

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

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

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

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

(6) Any federal probation officer or federal flight deck officer as defined under the federal flight deck officer program, 49 U.S.C. Section 44921 **regardless of whether such officers are on duty, or within the law enforcement agency's jurisdiction**;

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

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

(9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner; **[**and**]**

(10) Any prosecuting attorney or assistant prosecuting attorney or any circuit attorney or assistant circuit attorney who has completed the firearms safety training course required under subsection 2 of section 571.111**[.] ; and**

(11) Any member of a fire department or fire protection district, who is employed on a full-time basis as a fire investigator and who has a valid concealed carry endorsement under section 571.111 when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties.

3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision (1) of subsection 1 of this section does not apply to any person twenty-one years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subdivision (10) of subsection 1 of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event **or club event**.

4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to sections 571.101 to 571.121 or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.

5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this section shall not apply to persons who are engaged in a lawful act of defense pursuant to section 563.031.

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

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

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

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

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

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

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

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

10. **Notwithstanding any other provision of law, no person who pleads guilty to or is found guilty of a felony violation of subsection 1 of this section shall receive a suspended**

imposition of sentence if such person has previously received a suspended imposition of sentence for any other firearms or weapons related felony offense.

11. As used in this section "qualified retired peace officer" means an individual who:

(1) Retired in good standing from service with a public agency as a peace officer, other than for reasons of mental instability;

(2) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

(3) Before such retirement, was regularly employed as a peace officer for an aggregate of fifteen years or more, or retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

(4) Has a nonforfeitable right to benefits under the retirement plan of the agency if such a plan is available;

(5) During the most recent twelve-month period, has met, at the expense of the individual, the standards for training and qualification for active peace officers to carry firearms;

(6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) Is not prohibited by federal law from receiving a firearm.

[11.**] 12.** The identification required by subdivision (1) of subsection 2 of this section is:

(1) A photographic identification issued by the agency from which the individual retired from service as a peace officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm; or

(2) A photographic identification issued by the agency from which the individual retired from service as a peace officer; and

(3) A certification issued by the state in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the state to meet the standards established by the state for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm.

571.063. FRAUDULENT PURCHASE OF A FIREARM, CRIME OF — DEFINITIONS — PENALTY — EXCEPTIONS. — 1. As used in this section the following terms shall mean:

(1) "Ammunition", any cartridge, shell, or projectile designed for use in a firearm;

(2) "Licensed dealer", a person who is licensed under 18 U.S.C. Section 923 to engage in the business of dealing in firearms;

(3) "Materially false information", any information that portrays an illegal transaction as legal or a legal transaction as illegal;

(4) "Private seller", a person who sells or offers for sale any firearm, as defined in section 571.010, or ammunition.

2. A person commits the crime of fraudulent purchase of a firearm if such person:

(1) Knowingly solicits, persuades, encourages or entices a licensed dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under circumstances which the person knows would violate the laws of this state or the United States; or

(2) Provides to a licensed dealer or private seller of firearms or ammunition what the person knows to be materially false information with intent to deceive the dealer or seller about the legality of a transfer of a firearm or ammunition; or

(3) Willfully procures another to violate the provisions of subdivision (1) or (2) of this subsection.

3. Fraudulent purchase of a firearm is a class D felony.

4. This section shall not apply to criminal investigations conducted by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives, authorized agents of such investigations, or to a peace officer, as defined in section 542.261, acting at the explicit direction of the United States Bureau of Alcohol, Tobacco, Firearms and Explosives.

571.085. PURCHASE IN ANOTHER STATE BY MISSOURI RESIDENTS, PERMITTED WHEN. — Residents of the state of Missouri may purchase firearms in any state, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, and regulations thereunder, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Missouri and in the state in which the purchase is made.

571.087. PURCHASE IN MISSOURI BY NONRESIDENT, PERMITTED WHEN. — Residents of any state may purchase firearms in the state of Missouri, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, and regulations thereunder, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Missouri and in the state in which such persons reside.

571.101. CONCEALED CARRY ENDORSEMENTS, APPLICATION REQUIREMENTS — APPROVAL PROCEDURES — ISSUANCE OF CERTIFICATES, WHEN — RECORD-KEEPING REQUIREMENTS — FEES. — 1. All applicants for concealed carry endorsements issued pursuant to subsection 7 of this section must satisfy the requirements of sections 571.101 to 571.121. If the said applicant can show qualification as provided by sections 571.101 to 571.121, the county or city sheriff shall issue a certificate of qualification for a concealed carry endorsement. Upon receipt of such certificate, the certificate holder shall apply for a driver's license or nondriver's license with the director of revenue in order to obtain a concealed carry endorsement. Any person who has been issued a concealed carry endorsement on a driver's license or nondriver's license and such endorsement or license has not been suspended, revoked, canceled, or denied may carry concealed firearms on or about his or her person or within a vehicle. A concealed carry endorsement shall be valid for a period of three years from the date of issuance or renewal. The concealed carry endorsement is valid throughout this state.

2. A certificate of qualification for a concealed carry endorsement issued pursuant to subsection 7 of this section shall be issued by the sheriff or his or her designee of the county or city in which the applicant resides, if the applicant:

(1) Is at least **[**twenty-three**] twenty-one** years of age, is a citizen of the United States and either:

(a) Has assumed residency in this state; or

(b) Is a member of the armed forces stationed in Missouri, or the spouse of such member of the military;

(2) Has not pled guilty to or entered a plea of nolo contendere or been convicted of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;

(3) Has not been convicted of, pled guilty to or entered a plea of nolo contendere to one or more misdemeanor offenses involving crimes of violence within a five-year period immediately preceding application for a certificate of qualification for a concealed carry endorsement or if the applicant has not been convicted of two or more misdemeanor offenses

involving driving while under the influence of intoxicating liquor or drugs or the possession or abuse of a controlled substance within a five-year period immediately preceding application for a certificate of qualification for a concealed carry endorsement;

(4) Is not a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun;

(5) Has not been discharged under dishonorable conditions from the United States armed forces;

(6) Has not engaged in a pattern of behavior, documented in public records, that causes the sheriff to have a reasonable belief that the applicant presents a danger to himself or others;

(7) Is not adjudged mentally incompetent at the time of application or for five years prior to application, or has not been committed to a mental health facility, as defined in section 632.005, or a similar institution located in another state following a hearing at which the defendant was represented by counsel or a representative;

(8) Submits a completed application for a certificate of qualification as **[**defined**] described** in subsection 3 of this section;

(9) Submits an affidavit attesting that the applicant complies with the concealed carry safety training requirement pursuant to subsections 1 and 2 of section 571.111;

(10) Is not the respondent of a valid full order of protection which is still in effect.

3. The application for a certificate of qualification for a concealed carry endorsement issued by the sheriff of the county of the applicant's residence shall contain only the following information:

(1) The applicant's name, address, telephone number, gender, and date and place of birth;

(2) An affirmation that the applicant has assumed residency in Missouri or is a member of the armed forces stationed in Missouri or the spouse of such a member of the armed forces and is a citizen of the United States;

(3) An affirmation that the applicant is at least **[**twenty-three**] twenty-one** years of age;

(4) An affirmation that the applicant has not pled guilty to or been convicted of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun;

(5) An affirmation that the applicant has not been convicted of, pled guilty to, or entered a plea of nolo contendere to one or more misdemeanor offenses involving crimes of violence within a five-year period immediately preceding application for a certificate of qualification to obtain a concealed carry endorsement or if the applicant has not been convicted of two or more misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs or the possession or abuse of a controlled substance within a five-year period immediately preceding application for a certificate of qualification to obtain a concealed carry endorsement;

(6) An affirmation that the applicant is not a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;

(7) An affirmation that the applicant has not been discharged under dishonorable conditions from the United States armed forces;

(8) An affirmation that the applicant is not adjudged mentally incompetent at the time of application or for five years prior to application, or has not been committed to a mental health facility, as defined in section 632.005, or a similar institution located in another state, except that

a person whose release or discharge from a facility in this state pursuant to chapter 632, or a similar discharge from a facility in another state, occurred more than five years ago without subsequent recommitment may apply;

(9) An affirmation that the applicant has received firearms safety training that meets the standards of applicant firearms safety training defined in subsection 1 or 2 of section 571.111;

(10) An affirmation that the applicant, to the applicant's best knowledge and belief, is not the respondent of a valid full order of protection which is still in effect; and

(11) A conspicuous warning that false statements made by the applicant will result in prosecution for perjury pursuant to the laws of the state of Missouri.

4. An application for a certificate of qualification for a concealed carry endorsement shall be made to the sheriff of the county or any city not within a county in which the applicant resides. An application shall be filed in writing, signed under oath and under the penalties of perjury, and shall state whether the applicant complies with each of the requirements specified in subsection 2 of this section. In addition to the completed application, the applicant for a certificate of qualification for a concealed carry endorsement must also submit the following:

(1) A photocopy of a firearms safety training certificate of completion or other evidence of completion of a firearms safety training course that meets the standards established in subsection 1 or 2 of section 571.111; and

(2) A nonrefundable certificate of qualification fee as provided by subsection 10 or 11 of this section.

5. Before an application for a certificate of qualification for a concealed carry endorsement is approved, the sheriff shall make only such inquiries as he or she deems necessary into the accuracy of the statements made in the application. The sheriff may require that the applicant display a Missouri driver's license or nondriver's license or military identification and orders showing the person being stationed in Missouri. In order to determine the applicant's suitability for a certificate of qualification for a concealed carry endorsement, the applicant shall be fingerprinted. The sheriff shall request a criminal background check through the appropriate law enforcement agency within three working days after submission of the properly completed application for a certificate of qualification for a concealed carry endorsement. If no disqualifying record is identified by the fingerprint check at the state level, the fingerprints shall be forwarded to the Federal Bureau of Investigation for a national criminal history record check. Upon receipt of the completed background check, the sheriff shall issue a certificate of qualification for a concealed carry endorsement within three working days. The sheriff shall issue the certificate within forty-five calendar days if the criminal background check has not been received, provided that the sheriff shall revoke any such certificate and endorsement within twenty-four hours of receipt of any background check that results in a disqualifying record, and shall notify the department of revenue.

6. The sheriff may refuse to approve an application for a certificate of qualification for a concealed carry endorsement if he or she determines that any of the requirements specified in subsection 2 of this section have not been met, or if he or she has a substantial and demonstrable reason to believe that the applicant has rendered a false statement regarding any of the provisions of sections 571.101 to 571.121. If the applicant is found to be ineligible, the sheriff is required to deny the application, and notify the applicant in writing, stating the grounds for denial and informing the applicant of the right to submit, within thirty days, any additional documentation relating to the grounds of the denial. Upon receiving any additional documentation, the sheriff shall reconsider his or her decision and inform the applicant within thirty days of the result of the reconsideration. The applicant shall further be informed in writing of the right to appeal the denial pursuant to subsections 2, 3, 4, and 5 of section 571.114. After two additional reviews and denials by the sheriff, the person submitting the application shall appeal the denial pursuant to subsections 2, 3, 4, and 5 of section 571.114.

7. If the application is approved, the sheriff shall issue a certificate of qualification for a concealed carry endorsement to the applicant within a period not to exceed three working days

after his or her approval of the application. The applicant shall sign the certificate of qualification in the presence of the sheriff or his or her designee and shall within seven days of receipt of the certificate of qualification take the certificate of qualification to the department of revenue. Upon verification of the certificate of qualification and completion of a driver's license or nondriver's license application pursuant to chapter 302, the director of revenue shall issue a new driver's license or nondriver's license with an endorsement which identifies that the applicant has received a certificate of qualification to carry concealed weapons issued pursuant to sections 571.101 to 571.121 if the applicant is otherwise qualified to receive such driver's license or nondriver's license. **Notwithstanding any other provision of chapter 302, a nondriver's license with a concealed carry endorsement shall expire three years from the date the certificate of qualification was issued pursuant to this section** The requirements for the director of revenue to issue a concealed carry endorsement pursuant to this subsection shall not be effective until July 1, 2004, and the certificate of qualification issued by a county sheriff pursuant to subsection 1 of this section shall allow the person issued such certificate to carry a concealed weapon pursuant to the requirements of subsection 1 of section 571.107 in lieu of the concealed carry endorsement issued by the director of revenue from October 11, 2003, until the concealed carry endorsement is issued by the director of revenue on or after July 1, 2004, unless such certificate of qualification has been suspended or revoked for cause.

8. The sheriff shall keep a record of all applications for a certificate of qualification for a concealed carry endorsement and his or her action thereon. The sheriff shall report the issuance of a certificate of qualification to the Missouri uniform law enforcement system. All information on any such certificate that is protected information on any driver's or nondriver's license shall have the same personal protection for purposes of sections 571.101 to 571.121. An applicant's status as a holder of a certificate of qualification or a concealed carry endorsement shall not be public information and shall be considered personal protected information. Any person who violates the provisions of this subsection by disclosing protected information shall be guilty of a class A misdemeanor.

9. Information regarding any holder of a certificate of qualification or a concealed carry endorsement is a closed record.

10. For processing an application for a certificate of qualification for a concealed carry endorsement pursuant to sections 571.101 to 571.121, the sheriff in each county shall charge a nonrefundable fee not to exceed one hundred dollars which shall be paid to the treasury of the county to the credit of the sheriff's revolving fund.

11. For processing a renewal for a certificate of qualification for a concealed carry endorsement pursuant to sections 571.101 to 571.121, the sheriff in each county shall charge a nonrefundable fee not to exceed fifty dollars which shall be paid to the treasury of the county to the credit of the sheriff's revolving fund.

12. For the purposes of sections 571.101 to 571.121, the term "sheriff" shall include the sheriff of any county or city not within a county or his or her designee and in counties of the first classification the sheriff may designate the chief of police of any city, town, or municipality within such county.

571.107. ENDORSEMENT DOES NOT AUTHORIZE CONCEALED FIREARMS, WHERE — PENALTY FOR VIOLATION. — 1. A concealed carry endorsement issued pursuant to sections 571.101 to 571.121 or a concealed carry endorsement or permit issued by another state or political subdivision of another state shall authorize the person in whose name the permit or endorsement is issued to carry concealed firearms on or about his or her person or vehicle throughout the state. No driver's license or nondriver's license containing a concealed carry endorsement issued pursuant to sections 571.101 to 571.121 or a concealed carry endorsement or permit issued by another state or political subdivision of another state shall authorize any person to carry concealed firearms into:

(1) Any police, sheriff, or highway patrol office or station without the consent of the chief law enforcement officer in charge of that office or station. Possession of a firearm in a vehicle on the premises of the office or station shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(2) Within twenty-five feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(3) The facility of any adult or juvenile detention or correctional institution, prison or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention, or correctional institution, prison or jail shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(4) Any courthouse solely occupied by the circuit, appellate or supreme court, or any courtrooms, administrative offices, libraries or other rooms of any such court whether or not such court solely occupies the building in question. This subdivision shall also include, but not be limited to, any juvenile, family, drug, or other court offices, any room or office wherein any of the courts or offices listed in this subdivision are temporarily conducting any business within the jurisdiction of such courts or offices, and such other locations in such manner as may be specified by supreme court rule pursuant to subdivision (6) of this subsection. Nothing in this subdivision shall preclude those persons listed in subdivision (1) of subsection 2 of section 571.030 while within their jurisdiction and on duty, those persons listed in subdivisions (2), (4), and (10) of subsection 2 of section 571.030, or such other persons who serve in a law enforcement capacity for a court as may be specified by supreme court rule pursuant to subdivision (6) of this subsection from carrying a concealed firearm within any of the areas described in this subdivision. Possession of a firearm in a vehicle on the premises of any of the areas listed in this subdivision shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(5) Any meeting of the governing body of a unit of local government; or any meeting of the general assembly or a committee of the general assembly, except that nothing in this subdivision shall preclude a member of the body holding a valid concealed carry endorsement from carrying a concealed firearm at a meeting of the body which he or she is a member. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises**. Nothing in this subdivision shall preclude a member of the general assembly, a full-time employee of the general assembly employed under section 17, article III, Constitution of Missouri, legislative employees of the general assembly as determined under section 21.155, or statewide elected officials and their employees, holding a valid concealed carry endorsement, from carrying a concealed firearm in the state capitol building or at a meeting whether of the full body of a house of the general assembly or a committee thereof, that is held in the state capitol building**;

(6) The general assembly, supreme court, county or municipality may by rule, administrative regulation, or ordinance prohibit or limit the carrying of concealed firearms by endorsement holders in that portion of a building owned, leased or controlled by that unit of government. Any portion of a building in which the carrying of concealed firearms is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The statute, rule or ordinance shall exempt any building used for public housing by private persons, highways or rest areas, firing ranges, and private dwellings owned, leased, or controlled by that unit of government from any restriction on the carrying or possession of a firearm. The statute, rule or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the statute, rule or ordinance may be denied entrance to the building, ordered to leave the building and if employees of the unit of government, be subjected to disciplinary measures for violation of the provisions of the statute, rule or ordinance. The provisions of this subdivision shall not apply to any other unit of government;

(7) Any establishment licensed to dispense intoxicating liquor for consumption on the premises, which portion is primarily devoted to that purpose, without the consent of the owner or manager. The provisions of this subdivision shall not apply to the licensee of said establishment. The provisions of this subdivision shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than fifty persons and that receives at least fifty-one percent of its gross annual income from the dining facilities by the sale of food. This subdivision does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. Nothing in this subdivision authorizes any individual who has been issued a concealed carry endorsement to possess any firearm while intoxicated;

(8) Any area of an airport to which access is controlled by the inspection of persons and property. Possession of a firearm in a vehicle on the premises of the airport shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(9) Any place where the carrying of a firearm is prohibited by federal law;

(10) Any higher education institution or elementary or secondary school facility without the consent of the governing body of the higher education institution or a school official or the district school board. Possession of a firearm in a vehicle on the premises of any higher education institution or elementary or secondary school facility shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(11) Any portion of a building used as a child-care facility without the consent of the manager. Nothing in this subdivision shall prevent the operator of a child-care facility in a family home from owning or possessing a firearm or a driver's license or nondriver's license containing a concealed carry endorsement;

(12) Any riverboat gambling operation accessible by the public without the consent of the owner or manager pursuant to rules promulgated by the gaming commission. Possession of a firearm in a vehicle on the premises of a riverboat gambling operation shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(13) Any gated area of an amusement park. Possession of a firearm in a vehicle on the premises of the amusement park shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(14) Any church or other place of religious worship without the consent of the minister or person or persons representing the religious organization that exercises control over the place of religious worship. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(15) Any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one or more signs displayed in a conspicuous place of a minimum size of eleven inches by fourteen inches with the writing thereon in letters of not less than one inch. The owner, business or commercial lessee, manager of a private business enterprise, or any other organization, entity, or person may prohibit persons holding a concealed carry endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry endorsement from carrying concealed firearms on the property of the employer. If the building or the premises are open to the public, the employer of the business enterprise shall post signs on or about the premises if carrying a concealed firearm is prohibited. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. An employer may prohibit

employees or other persons holding a concealed carry endorsement from carrying a concealed firearm in vehicles owned by the employer;

(16) Any sports arena or stadium with a seating capacity of five thousand or more. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(17) Any hospital accessible by the public. Possession of a firearm in a vehicle on the premises of a hospital shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

2. Carrying of a concealed firearm in a location specified in subdivisions (1) to (17) of subsection 1 of this section by any individual who holds a concealed carry endorsement issued pursuant to sections 571.101 to 571.121 shall not be a criminal act but may subject the person to denial to the premises or removal from the premises. If such person refuses to leave the premises and a peace officer is summoned, such person may be issued a citation for an amount not to exceed one hundred dollars for the first offense. If a second citation for a similar violation occurs within a six-month period, such person shall be fined an amount not to exceed two hundred dollars and his or her endorsement to carry concealed firearms shall be suspended for a period of one year. If a third citation for a similar violation is issued within one year of the first citation, such person shall be fined an amount not to exceed five hundred dollars and shall have his or her concealed carry endorsement revoked and such person shall not be eligible for a concealed carry endorsement for a period of three years. Upon conviction of charges arising from a citation issued pursuant to this subsection, the court shall notify the sheriff of the county which issued the certificate of qualification for a concealed carry endorsement and the department of revenue. The sheriff shall suspend or revoke the certificate of qualification for a concealed carry endorsement and the department of revenue shall issue a notice of such suspension or revocation of the concealed carry endorsement and take action to remove the concealed carry endorsement from the individual's driving record. The director of revenue shall notify the licensee that he or she must apply for a new license pursuant to chapter 302 which does not contain such endorsement. A concealed carry endorsement suspension pursuant to sections 571.101 to 571.121 shall be reinstated at the time of the renewal of his or her driver's license. The notice issued by the department of revenue shall be mailed to the last known address shown on the individual's driving record. The notice is deemed received three days after mailing.

571.111. FIREARMS TRAINING REQUIREMENTS — SAFETY INSTRUCTOR REQUIREMENTS — PENALTY FOR VIOLATIONS. — 1. An applicant for a concealed carry endorsement shall demonstrate knowledge of firearms safety training. This requirement shall be fully satisfied if the applicant for a concealed carry endorsement:

(1) Submits a photocopy of a certificate of firearms safety training course completion, as defined in subsection 2 of this section, signed by a qualified firearms safety instructor as defined in subsection 5 of this section; or

(2) Submits a photocopy of a certificate that shows the applicant completed a firearms safety course given by or under the supervision of any state, county, municipal, or federal law enforcement agency; or

(3) Is a qualified firearms safety instructor as defined in subsection 5 of this section; or

(4) Submits proof that the applicant currently holds any type of valid peace officer license issued under the requirements of chapter 590; or

(5) Submits proof that the applicant is currently allowed to carry firearms in accordance with the certification requirements of section 217.710; or

(6) Submits proof that the applicant is currently certified as any class of corrections officer by the Missouri department of corrections and has passed at least one eight-hour firearms training course, approved by the director of the Missouri department of corrections under the authority

granted to him or her by section 217.105, that includes instruction on the justifiable use of force as prescribed in chapter 563.

2. A certificate of firearms safety training course completion may be issued to any applicant by any qualified firearms safety instructor. On the certificate of course completion the qualified firearms safety instructor shall affirm that the individual receiving instruction has taken and passed a firearms safety course of at least eight hours in length taught by the instructor that included:

(1) Handgun safety in the classroom, at home, on the firing range and while carrying the firearm;

(2) A physical demonstration performed by the applicant that demonstrated his or her ability to safely load and unload a revolver and a semiautomatic pistol and demonstrated his or her marksmanship with both;

(3) The basic principles of marksmanship;

(4) Care and cleaning of concealable firearms;

(5) Safe storage of firearms at home;

(6) The requirements of this state for obtaining a certificate of qualification for a concealed carry endorsement from the sheriff of the individual's county of residence and a concealed carry endorsement issued by the department of revenue;

(7) The laws relating to firearms as prescribed in this chapter;

(8) The laws relating to the justifiable use of force as prescribed in chapter 563;

(9) A live firing exercise of sufficient duration for each applicant to fire **[**a handgun**] both a revolver and a semiautomatic pistol**, from a standing position or its equivalent, a minimum of fifty rounds **from each handgun** at a distance of seven yards from a B-27 silhouette target or an equivalent target;

(10) A live fire test administered to the applicant while the instructor was present of twenty rounds **from each handgun** from a standing position or its equivalent at a distance from a B-27 silhouette target, or an equivalent target, of seven yards.

3. A qualified firearms safety instructor shall not give a grade of passing to an applicant for a concealed carry endorsement who:

(1) Does not follow the orders of the qualified firearms instructor or cognizant range officer; or

(2) Handles a firearm in a manner that, in the judgment of the qualified firearm safety instructor, poses a danger to the applicant or to others; or

(3) During the live fire testing portion of the course fails to hit the silhouette portion of the targets with at least fifteen rounds**, with both handguns**.

4. Qualified firearms safety instructors who provide firearms safety instruction to any person who applies for a concealed carry endorsement shall:

(1) Make the applicant's course records available upon request to the sheriff of the county in which the applicant resides;

(2) Maintain all course records on students for a period of no less than four years from course completion date; and

(3) Not have more than forty students in the classroom portion of the course or more than five students per range officer engaged in range firing.

5. A firearms safety instructor shall be considered to be a qualified firearms safety instructor by any sheriff issuing a certificate of qualification for a concealed carry endorsement pursuant to sections 571.101 to 571.121 if the instructor:

(1) Is a valid firearms safety instructor certified by the National Rifle Association holding a rating as a personal protection instructor or pistol marksmanship instructor; or

(2) Submits a photocopy of a certificate from a firearms safety instructor's course offered by a local, state, or federal governmental agency; or

(3) Submits a photocopy of a certificate from a firearms safety instructor course approved by the department of public safety; or

(4) Has successfully completed a firearms safety instructor course given by or under the supervision of any state, county, municipal, or federal law enforcement agency; or

(5) Is a certified police officer firearms safety instructor.

6. Any firearms safety instructor who knowingly provides any sheriff with **any** false information concerning an applicant's performance **[**on the live fire exercise or test administered to the applicant by the instructor pursuant to subdivision (9) or (10) of subsection 2 of this section**] on any portion of the required training and qualification** shall be guilty of a class C misdemeanor.

571.117. REVOCATION PROCEDURE FOR INELIGIBLE CERTIFICATE HOLDERS — SHERIFF'S IMMUNITY FROM LIABILITY, WHEN. — 1. Any person who has knowledge that another person, who was issued a certificate of qualification for a concealed carry endorsement pursuant to sections 571.101 to 571.121, never was or no longer is eligible for such endorsement under the criteria established in sections 571.101 to 571.121 may file a petition with the clerk of the small claims court to revoke that person's certificate of qualification for a concealed carry endorsement and such person's concealed carry endorsement. The petition shall be in a form substantially similar to the petition for revocation of concealed carry endorsement provided in this section. Appeal forms shall be provided by the clerk of the small claims court free of charge to any person:

SMALL CLAIMS COURT
In the Circuit Court of ....., Missouri

....., PLAINTIFF
)
)
vs.) Case Number .....
)
)
....., DEFENDANT,
Carry Endorsement Holder
.....,DEFENDANT,
Sheriff of Issuance

PETITION FOR REVOCATION
OF CERTIFICATE OF QUALIFICATION
OR CONCEALED CARRY ENDORSEMENT

Plaintiff states to the court that the defendant, ..., has a certificate of qualification or a concealed carry endorsement issued pursuant to sections 571.101 to 571.121, RSMo, and that the defendant's certificate of qualification or concealed carry endorsement should now be revoked because the defendant either never was or no longer is eligible for such a certificate or endorsement pursuant to the provisions of sections 571.101 to 571.121, RSMo, specifically plaintiff states that defendant, ..., never was or no longer is eligible for such certificate or endorsement for one or more of the following reasons:

(CHECK BELOW EACH REASON
THAT APPLIES TO THIS DEFENDANT)

[ ] Defendant is not at least **[**twenty-three**] twenty-one** years of age.

[ ] Defendant is not a citizen of the United States.

[ ] Defendant had not resided in this state **[**for at least six months**]** prior to issuance of the permit and does not qualify as a military member or spouse of a military member stationed in Missouri.

[ ] Defendant has pled guilty to or been convicted of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable

by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun.

[ ] Defendant has been convicted of, pled guilty to or entered a plea of nolo contendere to one or more misdemeanor offenses involving crimes of violence within a five-year period immediately preceding application for a certificate of qualification or concealed carry endorsement issued pursuant to sections 571.101 to 571.121, RSMo, or if the applicant has been convicted of two or more misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs or the possession or abuse of a controlled substance within a five-year period immediately preceding application for a certificate of qualification or a concealed carry endorsement issued pursuant to sections 571.101 to 571.121, RSMo.

[ ] Defendant is a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun.

[ ] Defendant has been discharged under dishonorable conditions from the United States armed forces.

[ ] Defendant is reasonably believed by the sheriff to be a danger to self or others based on previous, documented pattern.

[ ] Defendant is adjudged mentally incompetent at the time of application or for five years prior to application, or has been committed to a mental health facility, as defined in section 632.005, RSMo, or a similar institution located in another state, except that a person whose release or discharge from a facility in this state pursuant to chapter 632, RSMo, or a similar discharge from a facility in another state, occurred more than five years ago without subsequent recommitment may apply.

[ ] Defendant failed to submit a completed application for a certificate of qualification or concealed carry endorsement issued pursuant to sections 571.101 to 571.121, RSMo.

[ ] Defendant failed to submit to or failed to clear the required background check.

[ ] Defendant failed to submit an affidavit attesting that the applicant complies with the concealed carry safety training requirement pursuant to subsection 1 of section 571.111, RSMo.

The plaintiff subject to penalty for perjury states that the information contained in this petition is true and correct to the best of the plaintiff's knowledge, is reasonably based upon the petitioner's personal knowledge and is not primarily intended to harass the defendant/respondent named herein.

....., PLAINTIFF

2. If at the hearing the plaintiff shows that the defendant was not eligible for the certificate of qualification or the concealed carry endorsement issued pursuant to sections 571.101 to 571.121, at the time of issuance or renewal or is no longer eligible for a certificate of qualification or the concealed carry endorsement issued pursuant to the provisions of sections 571.101 to 571.121, the court shall issue an appropriate order to cause the revocation of the certificate of qualification or concealed carry endorsement. Costs shall not be assessed against the sheriff.

3. The finder of fact, in any action brought against an endorsement holder pursuant to subsection 1 of this section, shall make findings of fact and the court shall make conclusions of law addressing the issues at dispute. If it is determined that the plaintiff in such an action acted without justification or with malice or primarily with an intent to harass the endorsement holder or that there was no reasonable basis to bring the action, the court shall order the plaintiff to pay the defendant/respondent all reasonable costs incurred in defending the action including, but not limited to, attorney's fees, deposition costs, and lost wages. Once the court determines that the

plaintiff is liable to the defendant/respondent for costs and fees, the extent and type of fees and costs to be awarded should be liberally calculated in defendant/respondent's favor. Notwithstanding any other provision of law, reasonable attorney's fees shall be presumed to be at least one hundred fifty dollars per hour.

4. Any person aggrieved by any final judgment rendered by a small claims court in a petition for revocation of a certificate of qualification or concealed carry endorsement may have a right to trial de novo as provided in sections 512.180 to 512.320.

5. The office of the county sheriff or any employee or agent of the county sheriff shall not be liable for damages in any civil action arising from alleged wrongful or improper granting, renewing, or failure to revoke a certificate of qualification or a concealed carry endorsement issued pursuant to sections 571.101 to 571.121, so long as the sheriff acted in good faith.

SECTION 1. REGULATION BY MUNICIPALITIES PERMITTED--NO PROHIBITION AT SHOOTING RANGES. — 1. A municipality may regulate, by order or ordinance, the shooting of pneumatic guns within its boundaries when the municipality is, in the opinion of the governing body, so heavily populated that such conduct is dangerous to the inhabitants thereof. The municipality may require supervision by a parent, guardian, or other adult supervisor who is approved by a parent or guardian, of any minor below the age of twelve in all uses of pneumatic guns on public property. The ordinance may specify that minors twelve years of age or older may, with the consent of a parent or guardian, use a pneumatic gun at any place designated for such use by the local governing body or on private property with the consent of the owner. The ordinance may specify that any minor shall be responsible for obeying all laws, regulations, and restrictions governing such use, regardless of whether a parent or guardian has permitted such use.

2. No such ordinance shall prohibit the use pneumatic guns at facilities approved for shooting ranges.

[407.500. MISSOURI RESIDENTS MAY PURCHASE RIFLES AND SHOTGUNS IN CONTIGUOUS STATES, WHEN. — Residents of the state of Missouri may purchase rifles and shotguns in a state contiguous to the state of Missouri, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, and regulations thereunder, as administered by the United States Secretary of the Treasury, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Missouri and in the contiguous state in which the purchase is made.**]**

[407.505. RESIDENTS OF CONTIGUOUS STATES MAY PURCHASE RIFLES AND SHOTGUNS IN MISSOURI, WHEN. — Residents of a state contiguous to the state of Missouri may purchase rifles and shotguns in the state of Missouri, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, and regulations thereunder, as administered by the United States Secretary of the Treasury, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Missouri and in the state in which such persons reside.**]**

SECTION B. CONTINGENT EFFECTIVE DATE. — The repeal and reenactment of sections 302.181 and 571.101 shall become effective on the date the director of the department of revenue begins to issue nondriver licenses with conceal carry endorsements that expire three years from the dates the certificates of qualification were issued, or on January 1, 2013, whichever occurs first. If the director of revenue begins issuing nondriver licenses with conceal carry endorsements that expire three years from the dates the certificates of qualification were

issued under the authority granted under sections 302.181 and 571.101 prior to January 1, 2013, the director of the department of revenue shall notify the revisor of statutes of such fact.

Approved July 8, 2011

HB 300 [SCS HCS HB 300, 334 & 387]

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 Interscholastic Youth Sports Brain Injury Prevention Act which requires the Department of Health and Senior Services to develop guidelines on the risk of concussion and brain injury

AN ACT to amend chapter 167, RSMo, by adding thereto two new sections relating to student athlete brain injuries.

SECTION

A. Enacting clause.
167.765. Interscholastic youth sports brain injury prevention, rulemaking authority — information distribution — removal of athletes from competition, when.
167.775. Annual report on impact of concussions and head injuries, statewide athletic organizations.

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

SECTION A. ENACTING CLAUSE. — Chapter 167, RSMo, is amended by adding thereto two new sections, to be known as sections 167.765 and 167.775, to read as follows:

167.765. INTERSCHOLASTIC YOUTH SPORTS BRAIN INJURY PREVENTION, RULEMAKING AUTHORITY — INFORMATION DISTRIBUTION — REMOVAL OF ATHLETES FROM COMPETITION, WHEN. — 1. The provisions of this section shall be known as the "Interscholastic Youth Sports Brain Injury Prevention Act". No later than December 31, 2011, the department of health and senior services shall work with a statewide association of school boards, a statewide activities association that provides oversight for athletic or activity eligibility for students and school districts, and an organization named by the department of health and senior services that specializes in support services, education, and advocacy of those with brain injuries to promulgate rules which develop guidelines, pertinent information, and forms to educate coaches, youth athletes, and parents or guardians of youth athletes of the nature and risk of concussion and brain injury including continuing to play after concussion or brain injury. The primary focus of rules promulgated under this section shall be the safety and protection against long-term injury to the youth athlete.

2. On a yearly basis, each school district shall distribute a concussion and brain injury information sheet to each youth athlete participating in the district's athletic program. The information form shall be signed by the youth athlete's parent or guardian and submitted to the school district prior to the youth athlete's participation in any athletic practice or competition.

3. A youth athlete who is suspected of sustaining a concussion or brain injury in a practice or game shall be removed from competition at that time and for no less than twenty-four hours.

4. A youth athlete who has been removed from play shall not return to competition until the athlete is evaluated by a licensed health care provider trained in the evaluation and management of concussions as defined in the guidelines developed under subsection

1 of this section and receives written clearance to return to competition from that health care provider.

5. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, 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, 2011, shall be invalid and void.

167.775. ANNUAL REPORT ON IMPACT OF CONCUSSIONS AND HEAD INJURIES, STATEWIDE ATHLETIC ORGANIZATIONS. — 1. Any statewide athletic organization with a public school district as a member shall be required to publish an annual report relating to the impact of concussions and head injuries on student athletes which details efforts that may be made to minimize damages from injuries sustained by students participating in school sports. The annual report shall be distributed to the joint committee on education, the house committee on elementary and secondary education or any other education committee designated by the speaker of the house of representatives, and the senate committee on education or any other education committee designated by the president pro tem of the senate. The first report required under this section shall be completed and distributed no later than January 31, 2012. Such report shall be made available to school districts and to parents of students.

2. Notwithstanding any other law, no public school shall be a member of any statewide athletic organization failing to comply with the provisions of subsection 1 of this section.

Approved July 13, 2011

HB 307 [SCS HB 307 & HB 812]

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 Department of Revenue to issue specified special license plates for any vehicle except an apportioned motor vehicle or a commercial motor vehicle in excess of 18,000 pounds gross weight

AN ACT to amend chapter 301, RSMo, by adding thereto four new sections relating to special license plates.

SECTION

A. Enacting clause.
301.477. Combat Action Badge special license plate authorized, fee.
301.3161. Cass County — The Burnt District special license plate authorized, fee.
301.4006. Nixa Education Foundation special license plate authorized, fee.
301.4035. Don't Tread on Me special license plate authorized.

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

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto four new sections, to be known as sections 301.477, 301.3161, 301.4006, and 301.4035, to read as follows:

301.477. COMBAT ACTION BADGE SPECIAL LICENSE PLATE AUTHORIZED, FEE. — 1. Any person who has been awarded the combat action badge may apply for special personalized motor vehicle license plates for any vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight.

2. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof as a recipient of the combat action badge as the director may require.

3. The director shall then issue license plates bearing the words "COMBAT ACTION" in place of the words "SHOW-ME STATE" in a form prescribed by the director, except that such license plates shall be made with fully reflective material, shall have a white background with a blue and red configuration at the discretion of the director, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall also bear an image of the combat action badge.

4. There shall be an additional fee of fifteen dollars charged for each set of special combat action badge license plates issued pursuant to this section. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section.

5. There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person.

6. License plates issued pursuant to the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person.

7. The director may consult with the Missouri national guard or any other organization which represents the interests of persons receiving combat action badges when formulating the design for the special license plates described in this section.

8. The director shall make all necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010 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, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, 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, 2011, shall be invalid and void.

301.3161. CASS COUNTY — THE BURNT DISTRICT SPECIAL LICENSE PLATE AUTHORIZED, FEE. — 1. Any person may apply for special motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual contribution of twenty-five dollars to the Cass County collector of revenue. Any contribution derived from this section, except reasonable administrative costs, shall be distributed within the county as follows:

(1) Eighty percent to public safety; and

(2) Twenty percent to the Cass County parks and recreation department.

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

a fifteen-dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the words "CASS COUNTY — THE BURNT DISTRICT" in the place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for personalization of license plates under this section.

3. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2011, shall be invalid and void.

301.4006. NIXA EDUCATION FOUNDATION SPECIAL LICENSE PLATE AUTHORIZED, FEE. — 1. Notwithstanding any other provision of law, any person, after an annual payment of an emblem-use fee to the Nixa Education Foundation, may receive personalized speciality license plates for any vehicle owned, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Nixa Education Foundation hereby authorizes the use of its official emblem to be affixed on multi-year personalized speciality license plates as provided in this section. Any contribution to the Nixa Education Foundation derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Nixa Education Foundation. Any person may annually apply for the use of the emblem.

2. Upon annual application and payment of a fifteen dollar emblem-use contribution to the Nixa Education Foundation, the Nixa Education Foundation shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual emblem-use authorization statement and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a personalized speciality license plate which shall bear the emblem of the Nixa Education Foundation. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. In addition, upon each set of license plates shall be inscribed, in lieu of the words "SHOW-ME STATE", the words "NIXA EDUCATION FOUNDATION". Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalized specialty plates issued under this section.

3. A vehicle owner who was previously issued a plate with the Nixa Education Foundation's emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Nixa Education Foundation's emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

4. Prior to the issuance of a Nixa Education Foundation speciality plate authorized under this section, the department of revenue must be in receipt of an application, as prescribed by the director, which shall be accompanied by a list of at least two hundred potential applicants who plan to purchase the speciality plate, the proposed art design for the specialty license plate, and an application fee, not to exceed five thousand dollars, to defray the department's cost for issuing, developing, and programming the implementation of the specialty plate. Once the plate design is approved, the director of revenue shall not authorize the manufacture of the material to produce such personalized specialty license plates with the individual seal, logo, or emblem until such time as the director has received two hundred applications, the fifteen dollar specialty plate fee per application, and emblem-use statements, if applicable, and other required documents or fees for such plates.

301.4035. DON'T TREAD ON ME SPECIAL LICENSE PLATE AUTHORIZED. — Any person may apply for special "Don't Tread on Me" motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Such person shall make application for the special license plates on a form provided by the director of revenue. The director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "DON'T TREAD ON ME" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

Approved July 8, 2011

HB 315 [HCS HB 315]

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 provisions of the Revised Statutes of Missouri that have been enacted in more than one bill so that there is only one version of a statute

AN ACT to repeal sections 144.018 and 144.019, RSMo, and section 32.125 as enacted by house substitute for senate bill no. 374, eighty-eighth general assembly, first regular session, section 52.315 as enacted by house committee substitute for senate committee substitute for senate bill no. 497, ninety-fourth general assembly, first regular session, section 67.281 as enacted by conference committee substitute for senate bill no. 513, ninety-fifth general assembly, first regular session, section 67.1305 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 58 merged with conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 210 merged with conference committee substitute for house committee substitute for senate substitute for senate bill no. 343, ninety-third general assembly, first regular session, section 91.055 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, section 115.348 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, section 135.100 as enacted

by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.100 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 827, eighty-ninth general assembly, second regular session, section 135.200 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.200 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, section 135.200 as enacted by senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1656, eighty-ninth general assembly, second regular session, section 141.550 as enacted by conference committee substitute for house substitute for house committee substitute for senate committee substitute for senate bill no. 894, ninetieth general assembly, second regular session, section 171.035 as enacted by conference committee substitute for house committee substitute for senate bill no. 376, ninety-fourth general assembly, first regular session, section 171.035 as enacted by house committee substitute for house bill no. 678, ninety-fourth general assembly, first regular session, section 217.777 as enacted by senate committee substitute for senate bill no. 430, eighty-ninth general assembly, first regular session, section 227.381 as enacted by house bill no. 1488, ninety-third general assembly, second regular session, section 228.362 as enacted by conference committee substitute for house committee substitute for senate committee substitute for senate bill no. 180, eighty-seventh general assembly, first regular session, section 286.060 as enacted by senate committee substitute for house committee substitute for house bills nos. 300 & 95, eighty-eighth general assembly, first regular session, section 301.064 as enacted by house committee substitute for senate substitute for senate bill no 3, eighty-eighth general assembly, first regular session, section 301.064 as enacted by house bill no. 769, eighty-ninth general assembly, first regular session, section 301.630 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 895, ninety-first general assembly, second regular session, section 304.156 as enacted by senate committee substitute for house bill no. 996 and house bill no. 1142 and house committee substitute for house bill no. 1201 and house bill no. 1489, ninety-second general assembly, second regular session, section 304.678 as enacted by house committee substitute for senate committee substitute for senate bill no. 372, ninety-third general assembly, first regular session, section 321.701 as enacted by conference committee substitute no. 2 for senate substitute no. 2 for house committee substitute for house bills nos. 484, 199 & 72, eighty-eighth general assembly, first regular session, section 321.714 as enacted by senate substitute for senate committee substitute for house committee substitute for house bills nos. 452, 203, 377, 472, 473, 556 & 647, eighty-eighth general assembly, first regular session, section 324.712 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 567, ninety-first general assembly, first regular session, section 335.067 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 339.040 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 754, ninety-fifth general assembly, second regular session, section 361.170 as enacted by house committee substitute for house bill no. 379, ninety-third general assembly, first regular session, section 370.107 as enacted by senate bill no. 318, ninety-third general assembly, first regular session, section 376.1500 as enacted by senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 818, ninety-fourth general assembly, first regular session, section 393.906 as enacted by conference committee

substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, section 393.921 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, section 441.236 as enacted by house substitute for house committee substitute for senate substitute for senate committee substitute for senate bills nos. 89 & 37, ninety-first general assembly, first regular session, section 470.270 as enacted by conference committee substitute for house substitute for house committee substitute for senate substitute for senate bill no. 1248, ninety-first general assembly, second regular session, section 565.082 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 62, ninety-fifth general assembly, first regular session, section 644.031 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, and section 644.568 as enacted by house substitute for house committee substitute for senate substitute for senate committee substitute for senate bills nos. 160 & 82, ninetieth general assembly, first regular session, and to enact in lieu thereof four new sections for the sole purpose of repealing statutes with multiple versions.

SECTION

A. Enacting clause.
135.100. Definitions.
135.100. Definitions.
135.200. Definitions.
135.200. Definitions.
135.200. Definitions.
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301.064. Land improvement contractors' commercial motor vehicles, registration, fee — license plates.
301.064. Land improvement contractors' commercial motor vehicles, registration, fee — license plates.
32.125. Rules and regulations, promulgation, procedures.
52.315. Monthly deposits in tax maintenance fund — additional uses of money — audit of fund.
67.281. Installation of fire sprinklers to be offered to purchaser by builder of certain dwellings — purchaser may decline — expiration date.
67.1305. Retail sales tax may be imposed in lieu of certain local economic development sales tax — ballot language — collection and distribution of moneys — trust fund and board to be established — repeal of tax, procedure.
91.055. Customers may choose to maintain municipal water service despite claim of exclusive right by public water supply district (Jackson County).
115.348. Finding of guilt or plea under federal laws, disqualification for elective public office.
141.550. Conduct of sale — interests conveyed — special sale procedures for Certain counties, certain owners prohibited from bidding — cost of publication (first class charter counties, and Clay and Buchanan counties).
144.019. Resale of tangible personal property, exempt or excluded from sales and use tax, when — intent of exclusion.
171.035. Make-up days not required, when. Make-up days, exemption from requirement for schools in a declared federal disaster area, limitation.
171.035. Make-up days not required, when. Make-up days, exemption from requirement for schools in a declared federal disaster area, limitation.
217.777. Community corrections program alternative for eligible offenders, purpose — operation — rules.
227.381. Officer Thomas G. Smith Jr. Memorial Highway designated for a portion of I-55 in St. Louis County.
228.362. Use of road allowed, when — damages for use allowed, when — abandonment of proceedings, effect.
286.060. Labor and industrial relations commission, powers and duties — rules.
301.630. Lien or encumbrance, assignment, procedure, effect of — perfection of assignment, how, fee — form for notice of electronic certificate.
304.156. Notice to towing company, owner or lienholder, when — storage charges, when authorized — search of vehicle for ownership documents — petition, determination of wrongful taking — possessory lien, new title, how issued — sale of abandoned property by municipality or county — towing company, new title when.
304.678. Distance to be maintained when overtaking a bicycle — violation, penalty.
321.701. Members of board subject to recall — exceptions.

321.714. Certification of petition by election authority, content, election to be held — candidacy nomination filed — resignation by board member, recall to be removed from ballot — resigned board member may not fill vacancy.
324.712. Certificate of insurance required.
335.067. Impaired nurse program may be established by the board — purpose of program — contracts — immunity from liability, when — confidentiality of records.
339.040. Licenses granted to whom — examination — qualifications — fee — temporary broker's license, when — renewal, requirements.
361.170. Expenses of examination, how paid — salary schedule for division employees to be maintained — division of finance fund, created, uses, transfers to general revenue fund, when.
370.107. Annual fee — how computed — division of credit unions fund, created, uses — salary schedule of division employees to be maintained.
376.1500. Definitions.
393.906. Powers and duties.
393.921. Members must use services of nonprofit water company if available — membership not transferable, exception — meetings, how called, notice, procedure.
441.236. Disclosures required for transfer of property where methamphetamine production occurred.
470.270. Money or effects involved in litigation — disposition — unclaimed property, state may bring action to recover, when, exceptions.
565.082. Assault of a law enforcement officer, corrections officer, emergency personnel, highway worker, or probation and parole officer in the second degree, definition, penalty.
644.031. Storm water control, first class counties, Kansas City and St. Louis — distribution of funds — plan required — contracts for construction to be made within eighteen months — unused funds returned to clean water commission — redistribution of fund to all eligible cities and counties — state to pay one-third of cost — distribution directly to districts in certain cities and counties.
644.568. Commissioners may borrow additional $10,000,000 for rural water and sewer project grants and loans.

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

SECTION A. ENACTING CLAUSE. — Sections 144.018 and 144.019, RSMo, and section 32.125 as enacted by house substitute for senate bill no. 374, eighty-eighth general assembly, first regular session, section 52.315 as enacted by house committee substitute for senate committee substitute for senate bill no. 497, ninety-fourth general assembly, first regular session, section 67.281 as enacted by conference committee substitute for senate bill no. 513, ninety-fifth general assembly, first regular session, section 67.1305 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 58 merged with conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 210 merged with conference committee substitute for house committee substitute for senate substitute for senate bill no. 343, ninety-third general assembly, first regular session, section 91.055 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, section 115.348 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, section 135.100 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.100 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 827, eighty-ninth general assembly, second regular session, section 135.200 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701, ninetieth general assembly, first regular session, section 135.200 as enacted by conference committee substitute for house committee substitute for senate bill no. 1, eighty-ninth general assembly, second extraordinary session, section 135.200 as enacted by senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 1656, eighty-ninth general assembly, second regular session, section 141.550 as enacted by conference committee substitute for house substitute for house committee substitute for senate committee substitute for senate bill no. 894, ninetieth general assembly, second regular session, section 171.035 as enacted by conference

committee substitute for house committee substitute for senate bill no. 376, ninety-fourth general assembly, first regular session, section 171.035 as enacted by house committee substitute for house bill no. 678, ninety-fourth general assembly, first regular session, section 217.777 as enacted by senate committee substitute for senate bill no. 430, eighty-ninth general assembly, first regular session, section 227.381 as enacted by house bill no. 1488, ninety-third general assembly, second regular session, section 228.362 as enacted by conference committee substitute for house committee substitute for senate committee substitute for senate bill no. 180, eighty-seventh general assembly, first regular session, section 286.060 as enacted by senate committee substitute for house committee substitute for house bills nos. 300 & 95, eighty-eighth general assembly, first regular session, section 301.064 as enacted by house committee substitute for senate substitute for senate bill no. 3, eighty-eighth general assembly, first regular session, section 301.064 as enacted by house bill no. 769, eighty-ninth general assembly, first regular session, section 301.630 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 895, ninety-first general assembly, second regular session, section 304.156 as enacted by senate committee substitute for house bill no. 996 and house bill no. 1142 and house committee substitute for house bill no. 1201 and house bill no. 1489, ninety-second general assembly, second regular session, section 304.678 as enacted by house committee substitute for senate committee substitute for senate bill no. 372, ninety-third general assembly, first regular session, section 321.701 as enacted by conference committee substitute no. 2 for senate substitute no. 2 for house committee substitute for house bills nos. 484, 199 & 72, eighty-eighth general assembly, first regular session, section 321.714 as enacted by senate substitute for senate committee substitute for house committee substitute for house bills nos. 452, 203, 377, 472, 473, 556 & 647, eighty-eighth general assembly, first regular session, section 324.712 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 567, ninety-first general assembly, first regular session, section 335.067 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 339.040 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 754, ninety-fifth general assembly, second regular session, section 361.170 as enacted by house committee substitute for house bill no. 379, ninety-third general assembly, first regular session, section 370.107 as enacted by senate bill no. 318, ninety-third general assembly, first regular session, section 376.1500 as enacted by senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 818, ninety-fourth general assembly, first regular session, section 393.906 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, section 393.921 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, section 441.236 as enacted by house substitute for house committee substitute for senate substitute for senate committee substitute for senate bills nos. 89 & 37, ninety-first general assembly, first regular session, section 470.270 as enacted by conference committee substitute for house substitute for house committee substitute for senate substitute for senate bill no. 1248, ninety-first general assembly, second regular session, section 565.082 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 62, ninety-fifth general assembly, first regular session, section 644.031 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house bill no. 450, ninetieth general assembly, first regular session, and section 644.568 as enacted by house substitute for house committee substitute for senate substitute for senate committee substitute for senate bills nos. 160 & 82, ninetieth general assembly, first regular session, are repealed and four new sections enacted in lieu thereof, to be known as sections 135.100, 135.200, 144.018, and 301.064, to read as follows:

135.100. DEFINITIONS. — As used in sections 135.100 to 135.150 the following terms shall mean:

(1) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the new business facility is first available for use by the taxpayer, or first capable of being used by the taxpayer, in the revenue-producing enterprise in which the taxpayer intends to use the new business facility;

(2) "Existing business facility", any facility in this state which was employed by the taxpayer claiming the credit in the operation of a revenue-producing enterprise immediately prior to an expansion, acquisition, addition, or replacement;

(3) "Facility", any building used as a revenue-producing enterprise located within the state, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(4) **"NAICS", the North American Industrial Classification System as such classifications are defined in the 2007 edition of the North American Industrial Classification System;**

(5) "New business facility", a facility which satisfies the following requirements:

(a) Such facility is employed by the taxpayer in the operation of a revenue-producing enterprise. Such facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of a revenue-producing enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of a revenue-producing enterprise, the portion employed by the taxpayer in the operation of a revenue-producing enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), (d) and (e) of this subdivision are satisfied;

(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 1983. A facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31, 1983, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer, or the commencement of the term of the lease to the taxpayer occurs after December 31, 1983, or, if the facility is constructed, erected or installed by or on behalf of the taxpayer, such construction, erection or installation is commenced after December 31, 1983;

(c) If such facility was acquired by the taxpayer from another person or persons and such facility was employed immediately prior to the transfer of title to such facility to the taxpayer, or to the commencement of the term of the lease of such facility to the taxpayer, by any other person or persons in the operation of a revenue-producing enterprise, the operation of the same or a substantially similar revenue-producing enterprise is not continued by the taxpayer at such facility;

(d) Such facility is not a replacement business facility, as defined in subdivision **[**(10)**] (11)** of this section; and

(e) The new business facility investment exceeds one hundred thousand dollars during the tax period in which the credits are claimed;

[(5)**] (6)** "New business facility employee", a person employed by the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section 135.110 is claimed, except that truck drivers and rail and barge vehicle operators shall not constitute new business facility employees. A person shall be deemed to be so employed if such person performs duties in connection with the operation of the new business facility on:

(a) A regular, full-time basis; or

(b) A part-time basis, provided such person is customarily performing such duties an average of at least twenty hours per week; or

(c) A seasonal basis, provided such person performs such duties for at least eighty percent of the season customary for the position in which such person is employed;

[(6)**] (7)** "New business facility income", the Missouri taxable income, as defined in chapter 143, derived by the taxpayer from the operation of the new business facility. For the purpose of apportionment as prescribed in this subdivision, the term "Missouri taxable income" means, in the case of insurance companies, direct premiums as defined in chapter 148. If a taxpayer has income derived from the operation of a new business facility as well as from other activities conducted within this state, the Missouri taxable income derived by the taxpayer from the operation of the new business facility shall be determined by multiplying the taxpayer's Missouri taxable income, computed in accordance with chapter 143, or in the case of an insurance company, computed in accordance with chapter 148, by a fraction, the numerator of which is the property factor, as defined in paragraph (a) of this subdivision, plus the payroll factor, as defined in paragraph (b) of this subdivision, and the denominator of which is two:

(a) The property factor is a fraction, the numerator of which is the new business facility investment certified for the tax period, and the denominator of which is the average value of all the taxpayer's real and depreciable tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in chapter 32;

(b) The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as new business facility employees, as determined by subsection 4 of section 135.110, at the new business facility, and the denominator of which is the total amount paid in this state during the tax period by the taxpayer for compensation. The compensation paid in this state shall be determined as provided in chapter 32. For the purpose of this subdivision, "other activities conducted within this state" shall include activities previously conducted at the expanded, acquired or replaced facility at any time during the tax period immediately prior to the tax period in which commencement of commercial operations occurred;

[(7)**] (8)** "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year for which the credit allowed by section 135.110 is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

[(8)**] (9)** "Office", a regional, national or international headquarters, a telemarketing operation, a computer operation, an insurance company, a passenger transportation ticket/reservation system or a credit card billing and processing center. For the purposes of this subdivision, "headquarters" means the administrative management of at least four integrated facilities operated by the taxpayer or related taxpayer. An office, as defined in this subdivision, when established must create and maintain positions for a minimum number of twenty-five new business facility employees as defined in subdivision **[**(5)**] (6)** of this section;

[(9)**] (10)** "Related taxpayer" shall mean:

(a) A corporation, partnership, trust or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust or association in control of the taxpayer; or

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. For the purposes of sections 135.100 to 135.150, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote; "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the U.S. Internal Revenue Code;

[(10)**] (11)** "Replacement business facility", a facility otherwise described in subdivision **[**(4)**] (3)** of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year in which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of a revenue-producing enterprise and the taxpayer continues the operation of the same or substantially similar revenue-producing enterprise at the new facility. Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subsection 5 of section 135.110, in the new facility during the tax period in which the credits allowed in sections 135.110, 135.225 and 135.235 and the exemption allowed in section 135.220 are claimed exceed one million dollars or, if less, two hundred percent of the investment in the old facility by the taxpayer or related taxpayer, and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two except that the total number of employees at the new facility exceeds the total number of employees at the old facility by at least twenty-five if an office as defined in subdivision **[**(8)**] (9)** of this section is established by a revenue-producing enterprise other than a revenue-producing enterprise defined in paragraphs (a) to (g) and (i) to (l) of subdivision **[**(11)**] (12)** of this section;

[(11)**] (12)** "Revenue-producing enterprise" means:

(a) Manufacturing activities classified as **[**SICs 20 through 39**] NAICS 31-33**;

(b) Agricultural activities classified as **[**SIC 025**] NAICS 11**;

(c) Rail transportation terminal activities classified as **[**SIC 4013**] NAICS 482**;

(d) Motor freight transportation terminal activities classified as **[**SIC 4231**] NAICS 484 and NAICS 4884**;

(e) Public warehousing and storage activities classified as **[**SICs 422 and 423 except SIC 4221**] NAICS 493**, miniwarehouse warehousing and warehousing self-storage;

(f) Water transportation terminal activities classified as **[**SIC 4491**] NAICS 4832**;

(g) Airports, flying fields, and airport terminal services classified as **[**SIC 4581**] NAICS 481**;

(h) Wholesale trade activities classified as **[**SICs 50 and 51**] NAICS 42**;

(i) Insurance carriers activities classified as **[**SICs 631, 632 and 633**] NAICS 524**;

(j) Research and development activities classified as **[**SIC 873, except 8733**] NAICS 5417**;

(k) Farm implement dealer activities classified as **[**SIC 5999**] NAICS 42382**;

(l) Interexchange telecommunications services as defined in subdivision (20) of section 386.020 or training activities conducted by an interexchange telecommunications company as defined in subdivision (19) of section 386.020;

(m) Recycling activities classified as **[**SIC 5093**] NAICS 42393**;

(n) Office activities as defined in subdivision **[**(8)**] (9)** of this section, notwithstanding **[**SIC**] NAICS** classification;

(o) Mining activities classified as **[**SICs 10 through 14**] NAICS 21**;

(p) Computer programming, data processing and other computer-related activities classified as **[**SIC 737**] NAICS 5415**;

(q) The administrative management of any of the foregoing activities; or

(r) Any combination of any of the foregoing activities;

[(12)**] (13)** "Same or substantially similar revenue-producing enterprise", a revenue-producing enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed or conducted in the same or similar manner as in another revenue-producing enterprise;

[(13) "SIC", the standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget;**]**

(14) "Taxpayer", an individual proprietorship, corporation described in section 143.441 or 143.471, and partnership or an insurance company subject to the tax imposed by chapter 148, or in the case of an insurance company exempt from the thirty-percent employee requirement of section 135.230, to any obligation imposed pursuant to section 375.916.

[135.100. DEFINITIONS. — As used in sections 135.100 to 135.150 the following terms shall mean:

(1) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the new business facility is first available for use by the taxpayer, or first capable of being used by the taxpayer, in the revenue-producing enterprise in which the taxpayer intends to use the new business facility;

(2) "Existing business facility", any facility in this state which was employed by the taxpayer claiming the credit in the operation of a revenue-producing enterprise immediately prior to an expansion, acquisition, addition, or replacement;

(3) "Facility", any building used as a revenue-producing enterprise located within the state, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(4) "New business facility", a facility which satisfies the following requirements:

(a) Such facility is employed by the taxpayer in the operation of a revenue-producing enterprise. Such facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of a revenue-producing enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of a revenue-producing enterprise, the portion employed by the taxpayer in the operation of a revenue-producing enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), (d) and (e) of this subdivision are satisfied;

(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 1983. A facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31, 1983, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer, or the

commencement of the term of the lease to the taxpayer occurs after December 31, 1983, or, if the facility is constructed, erected or installed by or on behalf of the taxpayer, such construction, erection or installation is commenced after December 31, 1983;

(c) If such facility was acquired by the taxpayer from another person or persons and such facility was employed immediately prior to the transfer of title to such facility to the taxpayer, or to the commencement of the term of the lease of such facility to the taxpayer, by any other person or persons in the operation of a revenue-producing enterprise, the operation of the same or a substantially similar revenue-producing enterprise is not continued by the taxpayer at such facility;

(d) Such facility is not a replacement business facility, as defined in subdivision (10) of this section; and

(e) The new business facility investment exceeds one hundred thousand dollars during the tax period in which the credits are claimed;

(5) "New business facility employee", a person employed by the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section 135.110 is claimed, except that truck drivers and rail and barge vehicle operators shall not constitute new business facility employees. A person shall be deemed to be so employed if such person performs duties in connection with the operation of the new business facility on:

(a) A regular, full-time basis; or

(b) A part-time basis, provided such person is customarily performing such duties an average of at least twenty hours per week; or

(c) A seasonal basis, provided such person performs such duties for at least eighty percent of the season customary for the position in which such person is employed;

(6) "New business facility income", the Missouri taxable income, as defined in chapter 143, derived by the taxpayer from the operation of the new business facility. For the purpose of apportionment as prescribed in this subdivision, the term "Missouri taxable income" means, in the case of insurance companies, direct premiums as defined in chapter 148. If a taxpayer has income derived from the operation of a new business facility as well as from other activities conducted within this state, the Missouri taxable income derived by the taxpayer from the operation of the new business facility shall be determined by multiplying the taxpayer's Missouri taxable income, computed in accordance with chapter 143, or in the case of an insurance company, computed in accordance with chapter 148, by a fraction, the numerator of which is the property factor, as defined in paragraph (a) of this subdivision, plus the payroll factor, as defined in paragraph (b) of this subdivision, and the denominator of which is two:

(a) The "property factor" is a fraction, the numerator of which is the new business facility investment certified for the tax period, and the denominator of which is the average value of all the taxpayer's real and depreciable tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in chapter 32;

(b) The "payroll factor" is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as new business facility employees, as determined by subsection 4 of section 135.110, at the new business facility, and the denominator of which is the total amount paid in this state during the tax period by the taxpayer for compensation. The compensation paid in this state shall be determined as provided in chapter 32. For the purpose of this subdivision, "other activities conducted within this state" shall include activities previously conducted at the expanded, acquired or replaced facility at any time during

the tax period immediately prior to the tax period in which commencement of commercial operations occurred;

(7) "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year for which the credit allowed by section 135.110 is claimed, except that trucks, truck-trailers, truck semitrailers, rail and barge vehicles and other rolling stock for hire, track, switches, barges, bridges, tunnels and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

(8) "Office", a regional, national or international headquarters, a telemarketing operation, an insurance company, a passenger transportation ticket/reservation system or a credit card billing and processing center. For the purposes of this subdivision, "headquarters" means the administrative management of at least four integrated facilities operated by the taxpayer or related taxpayer. An office, as defined in this subdivision, when established must create and maintain positions for a minimum number of twenty-five new business facility employees as defined in subdivision (5) of this section;

(9) "Related taxpayer" shall mean:

(a) A corporation, partnership, trust or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust or association in control of the taxpayer; or

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. For the purposes of sections 135.100 to 135.150, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote; "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the U.S. Internal Revenue Code;

(10) "Replacement business facility", a facility otherwise described in subdivision (4) of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year in which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of a revenue-producing enterprise and the taxpayer continues the operation of the same or substantially similar revenue-producing enterprise at the new facility. Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subsection 5 of section 135.110, in the new facility during the tax period in which the credits allowed in sections 135.110, 135.225 and 135.235 and the exemption allowed in section 135.220 are claimed exceed one million dollars or, if less, two hundred percent of the investment in the old facility by the taxpayer or related taxpayer, and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two except that the total number of employees at the new facility exceeds the total number of employees at the old facility by at least twenty-five if an office as defined in subdivision (8) of this section is established by a revenue-producing enterprise other than a revenue-producing enterprise defined in paragraphs (a) to (g) and (i) to (l) of subdivision (11) of this section;

(11) "Revenue-producing enterprise" means:

(a) Manufacturing activities classified as SICs 20 through 39;

(b) Agricultural activities classified as SIC 025;

(c) Rail transportation terminal activities classified as SIC 4013;

(d) Motor freight transportation terminal activities classified as SIC 4231;

(e) Public warehousing and storage activities classified as SICs 422 and 423 except SIC 4221, miniwarehouse warehousing and warehousing self-storage;

(f) Water transportation terminal activities classified as SIC 4491;

(g) Wholesale trade activities classified as SICs 50 and 51;

(h) Insurance carriers activities classified as SICs 631, 632 and 633;

(i) Research and development activities classified as SIC 873, except 8733;

(j) Farm implement dealer activities classified as SIC 5999;

(k) Interexchange telecommunications services as defined in subdivision (24) or local exchange telecommunications services as defined in subdivision (31) of section 386.020 or training activities conducted by an interexchange telecommunications company or by a local exchange telecommunications company as defined in subdivisions (23) and (30) of section 386.020;

(l) Recycling activities classified as SIC 5093;

(m) Office activities as defined in subdivision (8) of this section, notwithstanding SIC classification;

(n) Mining activities classified as SICs 10 through 14;

(o) Computer programming, data processing and other computer-related activities classified as SIC 737;

(p) The administrative management of any of the foregoing activities; or

(q) Any combination of any of the foregoing activities;

(12) "Same or substantially similar revenue-producing enterprise", a revenue-producing enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed or conducted in the same or similar manner as in another revenue-producing enterprise;

(13) "SIC", the primary standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget. For the purpose of this subdivision, "primary" means at least fifty percent of the

activities so classified are performed at the new business facility during the taxpayer's tax period in which such tax credits are being claimed;

(14) "Taxpayer", an individual proprietorship, corporation described in section 143.441 or 143.471, and partnership or an insurance company subject to the tax imposed by chapter 148, or in the case of an insurance company exempt from the thirty percent employee requirement of section 135.230, to any obligation imposed pursuant to section 375.916.**]**

135.200. DEFINITIONS. — The following terms, whenever used in sections 135.200 to 135.256, mean:

(1) "Department", the department of economic development;

(2) "Director", the director of the department of economic development;

(3) "Facility", any building used as a revenue-producing enterprise located within an enterprise zone, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(4) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

(5) **"NAICS", the North American Industrial Classification System as such classifications are defined in the 2007 edition of the North American Industrial Classification System;**

(6) "New business facility" shall have the meaning defined in section 135.100, except that the term "lease" as used therein shall not include the leasing of property defined in paragraph (d) of subdivision **[**(6)**] (7)** of this section;

[(6)**] (7)** "Revenue-producing enterprise", means:

(a) Manufacturing activities classified as **[**SICs 20 through 39**] NAICS 31-33**;

(b) Agricultural activities classified as **[**SIC 025**] NAICS 11**;

(c) Rail transportation terminal activities classified as **[**SIC 4013**] NAICS 482**;

(d) Renting or leasing of residential property to low- and moderate-income persons as defined in federal law, 42 U.S.C. 5302(a)(20);

(e) Motor freight transportation terminal activities classified as **[**SIC 4231**] NAICS 484 and NAICS 4884**;

(f) Public warehousing and storage activities classified as **[**SICs 422 and 423 except SIC 4221**] NAICS 493**, miniwarehouse warehousing and warehousing self-storage;

(g) Water transportation terminal activities classified as **[**SIC 4491**] NAICS 4832**;

(h) Airports, flying fields, and airport terminal services classified as **[**SIC 4581**] NAICS 481**;

(i) Wholesale trade activities classified as **[**SICs 50 and 51**] NAICS 42**;

(j) Insurance carriers activities classified as **[**SICs 631, 632 and 633**] NAICS 524**;

(k) Research and development activities classified as **[**SIC 873, except 8733**] NAICS 5417**;

(l) Farm implement dealer activities classified as **[**SIC 5999**] NAICS 42382**;

(m) Employment agency activities classified as **[**SIC 7361**] NAICS 5613**;

(n) Computer programming, data processing and other computer-related activities classified as **[**SIC 737**] NAICS 518**;

(o) Health service activities classified as **[**SICs 801, 802, 803, 804, 806, 807, 8092 and 8093**] NAICS 621, 622, and 623**;

(p) Interexchange telecommunications as defined in subdivision (20) of section 386.020 or training activities conducted by an interexchange telecommunications company as defined in subdivision (19) of section 386.020;

(q) Recycling activities classified as **[**SIC 5093**] NAICS 42393**;

(r) Banking activities classified as **[**SICs 602 and 603**] NAICS 522**;

(s) Office activities as defined in subdivision **[**(8)**] (9)** of section 135.100, notwithstanding **[**SIC**] NAICS** classification;

(t) Mining activities classified as **[**SICs 10 through 14**] NAICS 21**;

(u) The administrative management of any of the foregoing activities; or

(v) Any combination of any of the foregoing activities;

[(7)**] (8)** "Satellite zone", a noncontiguous addition to an existing state designated enterprise zone**[**;

(8) "SIC", the standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget**]**.

[135.200. DEFINITIONS. — The following terms, whenever used in sections 135.200 to 135.256, mean:

(1) "Department", the department of economic development;

(2) "Director", the director of the department of economic development;

(3) "Facility", any building used as a revenue-producing enterprise located within an enterprise zone, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(4) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

(5) "New business facility" shall have the meaning defined in section 135.100, except that the term "lease" as used therein shall not include the leasing of property defined in paragraph (d) of subdivision (6) of this section;

(6) "Revenue-producing enterprise", means:

(a) Manufacturing activities classified as SICs 20 through 39;

(b) Agricultural activities classified as SIC 025;

(c) Rail transportation terminal activities classified as SIC 4013;

(d) Renting or leasing of residential property to low and moderate income persons as defined in federal law, 42 U.S.C. 5302(a)(20);

(e) Motor freight transportation terminal activities classified as SIC 4231;

(f) Public warehousing and storage activities classified as SICs 422 and 423 except SIC 4221, miniwarehouse warehousing and warehousing self-storage;

(g) Water transportation terminal activities classified as SIC 4491;

(h) Wholesale trade activities classified as SICs 50 and 51;

(i) Insurance carriers activities classified as SICs 631, 632 and 633;

(j) Research and development activities classified as SIC 873, except 8733;

(k) Farm implement dealer activities classified as SIC 5999;

(l) Employment agency activities classified as SIC 7361;

(m) Computer programming, data processing and other computer-related activities classified as SIC 737;

(n) Health service activities classified as SICs 801, 802, 803, 804, 806, 807, 8092 and 8093;

(o) Interexchange telecommunications as defined in subdivision (20) of section 386.020 or training activities conducted by an interexchange telecommunications company as defined in subdivision (19) of section 386.020;

(p) Recycling activities classified as SIC 5093;

(q) Banking activities classified as SICs 602 and 603;

(r) Office activities as defined in subdivision (8) of section 135.100, notwithstanding SIC classification;

(s) Mining activities classified as SICs 10 through 14;

(t) The administrative management of any of the foregoing activities; or

(u) Any combination of any of the foregoing activities;

(7) "Satellite zone", a noncontiguous addition to an existing state designated enterprise zone;

(8) "SIC", the primary standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget. For the purpose of this subdivision, "primary" means at least fifty percent of the activities so classified are performed at the new business facility during the taxpayer's tax period in which such tax credits are being claimed.**]**

[135.200. DEFINITIONS. — The following terms, whenever used in sections 135.200 to 135.256, mean:

(1) "Department", the department of economic development;

(2) "Director", the director of the department of economic development;

(3) "Facility", any building used as a revenue-producing enterprise located within an enterprise zone, including the land on which the facility is located and all machinery, equipment and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(4) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

(5) "New business facility" shall have the meaning defined in section 135.100, except that the term "lease" as used therein shall not include the leasing of property defined in paragraph (d) of subdivision (6) of this section;

(6) "Revenue-producing enterprise" means:

(a) Manufacturing activities classified as SICs 20 through 39;

(b) Agricultural activities classified as SIC 025;

(c) Rail transportation terminal activities classified as SIC 4013;

(d) Renting or leasing of residential property to low and moderate income persons as defined in federal law, 42 U.S.C. 5302(a)(20);

(e) Motor freight transportation terminal activities classified as SIC 4231;

(f) Public warehousing and storage activities classified as SICs 422 and 423 except SIC 4221, miniwarehouse warehousing and warehousing self-storage;

(g) Water transportation terminal activities classified as SIC 4491;

(h) Wholesale trade activities classified as SICs 50 and 51;

(i) Insurance carriers activities classified as SICs 631, 632 and 633;

(j) Research and development activities classified as SIC 873, except 8733;

(k) Farm implement dealer activities classified as SIC 5999;

(l) Employment agency activities classified as SIC 7361;

(m) Computer programming, data processing and other computer-related activities classified as SIC 737;

(n) Health service activities classified as SICs 801, 802, 803, 804, 806, 807, 8092 and 8093;

(o) Interexchange telecommunications as defined in subdivision (20) of section 386.020 or training activities conducted by an interexchange telecommunications company as defined in subdivision (19) of section 386.020;

(p) Recycling activities classified as SIC 5093;

(q) Banking activities classified as SICs 602 and 603;

(r) Office activities as defined in subdivision (8) of section 135.100, notwithstanding SIC classification;

(s) Mining activities classified as SICs 10 through 14;

(t) Photofinishing laboratory activities classified in SIC 7384 and microfilm recording and developing services as contained in SIC classification 7389, provided that each such revenue-producing enterprise employs a minimum of one hundred employees at a single business facility;

(u) The administrative management of any of the foregoing activities; or

(v) Any combination of any of the foregoing activities;

(7) "Satellite zone", a noncontiguous addition to an existing state designated enterprise zone;

(8) "SIC", the standard industrial classification as such classifications are defined in the 1987 edition of the Standard Industrial Classification Manual as prepared by the Executive Office of the President, Office of Management and Budget.**]**

144.018. RESALE OF TANGIBLE PERSONAL PROPERTY, EXEMPT OR EXCLUDED FROM SALES AND USE TAX, WHEN — INTENT OF EXCLUSION. — 1. Notwithstanding any other provision of law to the contrary, except as provided under subsection 2 or 3 of this section, when a purchase of tangible personal property or service subject to tax is made for the purpose of resale, such purchase shall be either exempt or excluded under this chapter if the subsequent sale is:

(1) Subject to a tax in this or any other state;

(2) For resale;

(3) Excluded from tax under this chapter;

(4) Subject to tax but exempt under this chapter; or

(5) Exempt from the sales tax laws of another state, if the subsequent sale is in such other state. The purchase of tangible personal property by a taxpayer shall not be deemed to be for resale if such property is used or consumed by the taxpayer in providing a service on which tax is not imposed by subsection 1 of section 144.020, except purchases made in fulfillment of any obligation under a defense contract with the United States government.

2. For purposes of subdivision (2) of subsection 1 of section 144.020, a place of amusement, entertainment or recreation, including games or athletic events, shall remit tax on the amount paid for admissions or seating accommodations, or fees paid to, or in such place of amusement, entertainment or recreation. Any subsequent sale of such admissions or seating accommodations shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such admissions or seating accommodations is exempt or excluded from payment of sales and use taxes, the provisions of this subsection shall not require the place of amusement, entertainment, or recreation to remit tax on that sale.

3. For purposes of subdivision (6) of subsection 1 of section 144.020, a hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public shall remit tax on the amount of sales or charges for all rooms, meals, and drinks furnished at such hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public. Any subsequent sale of such rooms, meals, or drinks shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such rooms, meals, or drinks is exempt or excluded from payment of sales and use taxes, the provisions of this subsection shall not require the hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public to remit tax on that sale.

4. The provisions of this section are intended to reject and abrogate earlier case law interpretations of the state's sales and use tax law with regard to sales for resale as extended in Music City Centre Management, LLC v. Director of Revenue, 295 S.W.3d 465, (Mo. 2009) and ICC Management, Inc. v. Director of Revenue, 290 S.W.3d 699, (Mo. 2009). **The provisions**

of this section are intended to clarify the exemption or exclusion of purchases for resale from sales and use taxes as originally enacted in this chapter.

[301.064. LAND IMPROVEMENT CONTRACTORS' COMMERCIAL MOTOR VEHICLES, REGISTRATION, FEE — LICENSE PLATES. — 1. The annual registration fee for a land improvement contractors' commercial motor vehicle is three hundred and fifty dollars. The maximum gross weight for which such a vehicle may be registered is seventy-three thousand two hundred and eighty pounds. Transporting for hire by such a motor vehicle is prohibited.

2. Upon application to the director of revenue accompanied by an affidavit signed by the owner or owners stating that the motor vehicle to be licensed as a land improvement contractors' commercial motor vehicle shall not be operated in any manner other than as prescribed in section 301.010, and by the amount of the registration fee prescribed in subsection 1 of this section, and otherwise complying with the laws relating to the registration and licensing of motor vehicles, the owner or owners shall be issued a distinctive set of land improvement contractors' license plates. The director of revenue shall by regulation determine the characteristic features of land improvement contractors' license plates so that they may be readily identified as such.**]**

301.064. LAND IMPROVEMENT CONTRACTORS' COMMERCIAL MOTOR VEHICLES, REGISTRATION, FEE — LICENSE PLATES. — 1. The annual registration fee for a land improvement contractors' commercial motor vehicle is three hundred and fifty dollars. The maximum gross weight for which such a vehicle may be registered is eighty thousand pounds. Transporting for hire by such a motor vehicle is prohibited.

2. Upon application to the director of revenue accompanied by an affidavit signed by the owner or owners stating that the motor vehicle to be licensed as a land improvement contractors' commercial motor vehicle shall not be operated in any manner other than as prescribed in section 301.010, and by the amount of the registration fee prescribed above, and otherwise complying with the laws relating to the registration and licensing of motor vehicles, the owner or owners shall be issued a set of land improvement contractors' license plates. **[**The advisory committee established in section 301.129 shall determine the characteristic features of land improvement contractors' license plates so that they may be readily identified as such, except that such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Any rule or portion of a rule promulgated pursuant to sections 301.010, 301.057, 301.058, and 301.064 may be suspended by the committee on administrative rules until such time as the general assembly may by concurrent resolution reinstate such rule.**] The director of revenue shall by regulation determine the characteristic features of land improvement contractors' license plates so that they may be readily identified as such.**

[32.125. RULES AND REGULATIONS, PROMULGATION, PROCEDURES. — 1. No rule or portion of a rule promulgated under the authority of this chapter or any provisions of any other chapter by the department of revenue shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.

2. Upon filing any proposed rule with the secretary of state, the department of revenue shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

3. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the department of revenue may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

4. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

(1) An absence of statutory authority for the proposed rule;

(2) An emergency relating to public health, safety or welfare;

(3) The proposed rule is in conflict with state law;

(4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

5. If the committee disapproves any rule or portion thereof, the department of revenue shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

6. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

7. Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the constitution, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.**]**

[52.315. MONTHLY DEPOSITS IN TAX MAINTENANCE FUND — ADDITIONAL USES OF MONEY — AUDIT OF FUND. — 1. The two-sevenths collected to fund the tax maintenance fund under subdivision (1) of section 52.290 and all moneys collected to fund the tax maintenance fund under subdivision (2) of section 52.290 shall be transmitted monthly for deposit into the tax maintenance fund and used for additional administration and operation costs for the office of collector. Any costs shall include, but shall not be limited to, those costs that require any additional out-of-pocket expense by the office of collector and it may include reimbursement to county general revenue for the salaries of employees of the office of collector for hours worked and any other expenses necessary to conduct and execute the duties and responsibilities of such office.

2. The tax maintenance fund may also be used by the collector for training, purchasing new or upgrading information technology, equipment or other essential administrative expenses necessary to carry out the duties and responsibilities of the office of collector, including anything necessarily pertaining thereto.

3. The collector has the sole responsibility for all expenditures made from the tax maintenance fund and shall approve all expenditures from such fund. All such expenditures from the tax maintenance fund shall not be used to substitute for or

subsidize any allocation of county general revenue for the operation of the office of collector.

4. The tax maintenance fund may be audited by the appropriate auditing agency. Any unexpended balance shall be left in the tax maintenance fund, to accumulate from year to year with interest.**]**

[67.281. INSTALLATION OF FIRE SPRINKLERS TO BE OFFERED TO PURCHASER BY BUILDER OF CERTAIN DWELLINGS — PURCHASER MAY DECLINE — EXPIRATION DATE. — On or before the date of entering into a purchase contract, any builder of single-family dwellings or residences or multifamily dwellings of four or fewer units shall offer to any purchaser the option to install or equip such dwellings or residences with a fire sprinkler system at the purchaser's cost. Notwithstanding any other provision of law to the contrary, no code, order, ordinance, rule, regulation, or resolution adopted by any political subdivision shall be construed to deny any purchaser of any such dwelling or residence the option to choose or decline the installation or equipping of such dwelling or residence with a fire sprinkler system. Any code, order, ordinance, rule, regulation, or resolution adopted by any political subdivision shall include a provision requiring each builder to provide each purchaser of any such dwelling or residence with the option of purchasing a fire sprinkler system for such dwelling or residence. This section shall expire on December 31, 2011.**]**

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

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

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

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

[ ] YES [ ] NO

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

4. All sales taxes collected by the director of revenue under this section on behalf of any county or city or municipality, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, shall be deposited in a special trust fund, which is hereby created, to be known as the "Local Option Economic Development Sales Tax Trust Fund".

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

6. Not later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the city or county which levied the tax. Such funds shall be deposited with the county treasurer of each such county or the appropriate city or municipal officer in the case of a city or municipal tax, and all expenditures of funds arising from the local option economic development sales tax trust fund shall be in accordance with this section.

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

8. If any county or city or municipality abolishes the tax, the city or county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city or county, the director of revenue shall remit the balance in the account to the city or county and close the account of that city or county. The director of revenue shall notify each city or county of each instance of any amount refunded or any check redeemed from receipts due the city or county.

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

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

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

(a) Acquisition of land;

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

(c) Improvement of water and wastewater treatment capacity;

(d) Extension of streets;

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

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

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

(a) Marketing;

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

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

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

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

11. All revenue generated by the tax shall be deposited in a special trust fund and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city or county funds.

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

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

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

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

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

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

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

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

(c) Two members from the cities, towns, or villages within the county appointed in any manner agreed upon by the chief elected officers of the cities, towns or villages. Of the members initially appointed, three shall be designated to serve for terms of two years, and the remaining members shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

13. The board, subject to approval of the governing body of the city or county, shall consider economic development plans, economic development projects, or designations of an economic development area, and shall hold public hearings and provide notice of any such hearings. The board shall vote on all proposed economic development plans, economic development projects, or designations of an economic development area, and amendments thereto, within thirty days following completion of the hearing on any such plan, project, or designation, and shall make recommendations to the governing body within ninety days of the hearing concerning the adoption of or amendment to economic development plans, economic development projects, or designations of an economic development area. The governing body of the city or county shall have the final determination on use and expenditure of any funds received from the tax imposed under this section.

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

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

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

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

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

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

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

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

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

(a) Infrastructure improvements;

(b) Land and or buildings, or both;

(c) Machinery and equipment;

(d) Job training investments;

(e) Direct business incentives;

(f) Marketing;

(g) Administration and legal expenses; and

(h) Other expenditures.

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

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

[ ] YES [ ] NO

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

shall remain effective until the question is resubmitted under this section to the qualified voters of the city or county, and the repeal is approved by a majority of the qualified voters voting on the question.

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

[91.055. CUSTOMERS MAY CHOOSE TO MAINTAIN MUNICIPAL WATER SERVICE DESPITE CLAIM OF EXCLUSIVE RIGHT BY PUBLIC WATER SUPPLY DISTRICT (JACKSON COUNTY). — Other provisions of law to the contrary notwithstanding, in any first class county with a charter form of government and a population greater than six hundred thousand and less than nine hundred thousand persons, any person who, on June 29, 1999, is a water service customer of any municipality located in whole or in part in such county may continue to receive water service from such municipality even in the event that a public water supply district shall claim the exclusive right to provide water service to such person.**]**

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

[141.550. CONDUCT OF SALE — INTERESTS CONVEYED — SPECIAL SALE PROCEDURES FOR CERTAIN COUNTIES, CERTAIN OWNERS PROHIBITED FROM BIDDING — COST OF PUBLICATION (FIRST CLASS CHARTER COUNTIES, AND CLAY AND BUCHANAN COUNTIES). — 1. The sale shall be conducted, the sheriff's return thereof made, and the sheriff's deed pursuant to the sale executed, all as provided in the case of sales of real estate taken under execution except as otherwise provided in sections 141.210 to 141.810, and provided that such sale need not occur during the term of court or while the court is in session.

2. The following provisions shall apply to any sale pursuant to this section of property located within any municipality contained wholly or partially within a county with a population of over six hundred thousand and less than nine hundred thousand:

(1) The sale shall be held on the day for which it is advertised, between the hours of nine o'clock a.m. and five o'clock p.m. and continued day to day thereafter to satisfy the judgment as to each respective parcel of real estate sold;

(2) The sale shall be conducted publicly, by auction, for ready money. The highest bidder shall be the purchaser unless the highest bid is less than the full amount of all tax bills included in the judgment, interest, penalties, attorney's fees and costs then due thereon. No person shall be eligible to bid at the time of the sale unless such person has, no later than ten days before the sale date, demonstrated to the satisfaction of the official charged by law with conducting the sale that he or she is not the owner of any parcel of real estate in the county which is affected by a tax bill which has been delinquent for more than six months and is not the owner of any parcel of real property with two or more convictions based on violations occurring within a two-year period of the municipality's building or housing codes. A prospective bidder may make such a demonstration by presenting statements from the appropriate collection and code enforcement officials of the municipality.

3. Such sale shall convey the whole interest of every person having or claiming any right, title or interest in or lien upon such real estate, whether such person has answered or not, subject to rights-of-way thereon of public utilities upon which tax has been otherwise paid, and subject to the lien thereon, if any, of the United States of America.

4. The collector shall advance the sums necessary to pay for the publication of all advertisements required by sections 141.210 to 141.810 and shall be allowed credit therefor in his or her accounts with the county. The collector shall give credit in such accounts for all such advances recovered by him or her. Such expenses of publication shall be apportioned pro rata among and taxed as costs against the respective parcels of real estate described in the judgment; provided, however, that none of the costs herein enumerated, including the costs of publication, shall constitute any lien upon the real estate after such sale.**]**

[144.019. RESALE OF TANGIBLE PERSONAL PROPERTY, EXEMPT OR EXCLUDED FROM SALES AND USE TAX, WHEN — INTENT OF EXCLUSION. — 1. Notwithstanding any other provision of law to the contrary, when a purchase of tangible personal property or service subject to tax is made for the purpose of resale, such purchase is exempt or excluded under this chapter if the subsequent sale is subject to a tax in this or any other state, is for resale, is excluded from tax under this chapter, is subject to tax but exempt under this chapter, or is exempt from the sales tax laws of another state if the subsequent sale is in such other state. The purchase of tangible personal property by a taxpayer shall not be deemed to be for resale if such property is used or consumed by the taxpayer in providing a service on which tax is not imposed by subsection 1 of section 144.020, except purchases made in fulfillment of any obligation under a defense contract with the United States government.

2. For purposes of subdivision (2) of subsection 1 of section 144.020, the operator of a place of amusement, entertainment or recreation, including games or athletic events, must remit tax on the amount paid for admissions or seating accommodations, or fees paid to, or in such place of amusement, entertainment or recreation. Any subsequent sale of such admissions or seating accommodations shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such admissions or seating accommodations is exempt or excluded from payment of sales and use taxes, this provision does not require the place of amusement, entertainment, or recreation to remit tax on that sale.

3. For purposes of subdivision (6) of subsection 1 of section 144.020, the operator of a hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public must remit tax on the amount of sales or charges for all rooms, meals, and drinks furnished at such hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public. Any subsequent sale of such rooms, meals, or drinks shall not be subject to tax if the initial sale was an arms length transaction for fair market value with an unaffiliated entity. If the sale of such rooms, meals, or drinks is exempt or excluded from payment of sales and use taxes, this provision does not require the hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp, or other place in which rooms, meals, or drinks are regularly served to the public to remit tax on that sale.

4. The provisions of this section are intended to clarify the exemption or exclusion of purchases for resale from sales and use taxes as originally enacted in this chapter.**]**

[171.035. MAKE-UP DAYS NOT REQUIRED, WHEN. MAKE-UP DAYS, EXEMPTION FROM REQUIREMENT FOR SCHOOLS IN A DECLARED FEDERAL DISASTER AREA, LIMITATION. — Any school district that cancelled classes or dismissed classes early for weather-related reasons for any of its schools for any days from January 11, 2007, to January 22, 2007, shall not be required to make up the days or hours lost during such time. 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 2007-08 school year.]

[171.035. MAKE-UP DAYS NOT REQUIRED, WHEN. 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 15 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 2006-07 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 2007-08 school year.**]**

[217.777. COMMUNITY CORRECTIONS PROGRAM ALTERNATIVE FOR ELIGIBLE OFFENDERS, PURPOSE — OPERATION — RULES. — 1. The department shall administer a community corrections program to encourage the establishment of local sentencing alternatives for offenders to:

(1) Promote accountability of offenders to crime victims, local communities and the state by providing increased opportunities for offenders to make restitution to victims of crime through financial reimbursement or community service;

(2) Ensure that victims of crime are included in meaningful ways in Missouri's response to crime;

(3) Provide structured opportunities for local communities to determine effective local sentencing options to assure that individual community programs are specifically designed to meet local needs;

(4) Reduce the cost of punishment, supervision and treatment significantly below the annual per-offender cost of confinement within the traditional prison system; and

(5) Improve public confidence in the criminal justice system by involving the public in the development of community-based sentencing options for eligible offenders.

2. The program shall be designed to implement and operate community-based restorative justice projects including, but not limited to: preventive or diversionary programs, community-based intensive probation and parole services, community-based treatment centers, day reporting centers, and the operation of facilities for the detention, confinement, care and treatment of adults under the purview of this chapter.

3. The department shall promulgate rules and regulations for operation of the program established pursuant to this section as provided for in section 217.040 and chapter 536.

4. Any proposed program or strategy created pursuant to this section shall be developed after identification of a need in the community for such programs, through consultation with representatives of the general public, judiciary, law enforcement and defense and prosecution bar.

5. Until December 31, 2000, in communities where local volunteer community boards are established at the request of the court, the following guidelines apply:

(1) The department shall provide a program of training to eligible volunteers and develop specific conditions of a probation program and conditions of probation for offenders referred to it by the court. Such conditions, as established by the community boards and the department, may include compensation and restitution to the community and the victim by fines, fees, day fines, victim-offender mediation, participation in victim impact panels, community service, or a combination of the aforementioned conditions;

(2) In referring offenders to local volunteer community boards for probation supervision pursuant to this section, the court is encouraged to select those volunteers who live in close geographical proximity to the community in which the crime is alleged to have occurred for supervision purposes;

(3) The term of probation shall not exceed five years and may be concluded by the court when conditions imposed are met to the satisfaction of the local volunteer community board.

6. The department may staff programs created pursuant to this section with employees of the department or may contract with other public or private agencies for delivery of services as otherwise provided by law.**]**

[227.381. OFFICER THOMAS G. SMITH JR. MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF I-55 IN ST. LOUIS COUNTY. — The portion of interstate 55 in St. Louis County between Butler Hill Road and Meramec Bottom Road shall be designated the "Officer Thomas G. Smith Jr. Memorial Highway".**]**

[228.362. USE OF ROAD ALLOWED, WHEN — DAMAGES FOR USE ALLOWED, WHEN — ABANDONMENT OF PROCEEDINGS, EFFECT. — 1. Unless exceptions to the commissioners' report have been filed pursuant to section 228.358, the plaintiffs shall not be entitled to use of the private road until judgment is entered and becomes final and appeals, if any, have been exhausted and the plaintiffs have satisfied the damage award contained in the judgment. The plaintiffs may voluntarily abandon the proceedings and dismiss the petition at any time prior to satisfaction of the damage award, and if the plaintiffs do not satisfy the damage award within sixty days following the date upon which the judgment becomes final and appeals, if any, have been exhausted, then the proceedings shall be deemed abandoned. In either instance, the circuit court shall retain jurisdiction solely to enter an order vacating the judgment, dismissing the petition and ordering disposition of the bond, if any. No execution shall issue on the damage award. If the plaintiffs shall have used the private road before judgment has become final and appeals, if any, have been exhausted and the private road is not for any reason established according to the terms of sections 228.342 to 228.368, after final judgment and appeals, the plaintiffs and their sureties shall be liable on their bond for all damages and costs occasioned by such use of the private road. If the petition is voluntarily dismissed after the filing of the commissioners' report or is deemed abandoned, the plaintiffs and the successors and assigns to the real property which was the subject of the petition shall be barred for a period of seven years from the date of the abandonment or dismissal from filing another petition under sections 228.342 to 228.368, for the establishment of a private road over the same or any part of the real property over which the private road was sought in the prior petition.

2. If a party files exceptions to the commissioners' report pursuant to this section, the plaintiffs shall be entitled to use of the private road before judgment is entered and becomes final and appeals, if any, have been exhausted, if the plaintiffs shall have

given an appeal bond in an amount as the circuit court deems sufficient to pay the probable damages that plaintiffs will owe and costs.**]**

[286.060. LABOR AND INDUSTRIAL RELATIONS COMMISSION, POWERS AND DUTIES — RULES. — 1. It shall be the duty of the commission, and it shall have power, jurisdiction and authority:

(1) To sue and be sued in its official name;

(2) To have and use an official seal bearing the following inscription: "The Labor and Industrial Relations Commission of the State of Missouri", which shall be judicially noticed;

(3) To have all powers, duties and responsibilities conferred or imposed upon it by the workers' compensation law (chapter 287), the victims of crime law, chapter 595, the division of labor standards law (within chapters 286, 290, 291, 292, 293, 294 and 444), and the unemployment compensation law (chapter 288);

(4) To approve or disapprove all rules or regulations promulgated by any division within the department;

(5) To establish and maintain as far as practicable a central system of collecting, preparing, compiling and reporting all material for statistical use in all divisions of the department of labor and industrial relations, and to this end the department shall have access to the books and records of all state departments, except those which are required by law to be kept confidential. The commission may by regulation permit employers or other persons to file combined reports of information required by law to be reported to the several divisions within the department whenever it finds that same or similar information is required by law to be reported by such employers or persons to more than one division within the department;

(6) To maintain, as far as practicable, a central system for payroll and other accounting for the several divisions in the department;

(7) To compile and publish, in printed form, at the expense of the divisions within the department all rules and regulations (except such rules and regulations which relate to the internal management of the department) which have been adopted by or with the approval of the commission, and to furnish copies thereof to any citizen of the state upon request;

(8) To adopt all regulations necessary to the efficient internal management of the department, not inconsistent with any provisions of law; and to adopt regulations governing its proceedings in connection with the exercise of its quasi-judicial functions;

(9) The commission or any member of the commission may hold hearings, require the attendance of witnesses, administer oaths and take testimony;

(10) Each of the commissioners shall have power to certify to official acts;

(11) To prepare and submit to each regular session of the general assembly and to the governor at the beginning of each session of the general assembly, a complete and detailed report of the activities of the department, including the activities of each division within the department, during the preceding biennial period. Such report shall include a balance sheet of the moneys in the various administrative funds under its jurisdiction as well as all information required to be reported by the various laws under its jurisdiction, which reports shall be in lieu of any report to the general assembly now required by law for any department or office, the powers and duties of which are by this chapter vested in a division in the department of labor and industrial relations;

(12) To require the division of employment security to furnish it with a stenographer or clerk to file, process and keep records of all cases appealed from that division to the labor and industrial relations commission; and

(13) To have and perform such other powers and duties as may be conferred or imposed upon it by law.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided in this section, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided in this section.

3. Upon filing any proposed rule with the secretary of state, the filing agency shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

4. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the filing agency may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

5. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

(1) An absence of statutory authority for the proposed rule;

(2) An emergency relating to public health, safety or welfare;

(3) The proposed rule is in conflict with state law;

(4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

6. If the committee disapproves any rule or portion thereof, the filing agency shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

7. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

8. Upon adoption of a rule as provided in this section, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the Constitution of Missouri, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.**]**

[301.630. LIEN OR ENCUMBRANCE, ASSIGNMENT, PROCEDURE, EFFECT OF — PERFECTION OF ASSIGNMENT, HOW, FEE — FORM FOR NOTICE OF ELECTRONIC CERTIFICATE. — 1. A lienholder may assign, absolutely or otherwise, his or her lien or encumbrance in the motor vehicle or trailer to a person other than the owner without affecting the interest of the owner or the validity or effect of the lien or encumbrance, but any person without notice of the assignment is protected in dealing with the lienholder as the holder of the lien or encumbrance and the lienholder remains liable for any obligations as lienholder until the assignee is named as lienholder on the certificate.

2. The assignee may, but need not perfect the assignment, have the certificate of ownership endorsed or issued with the assignee named as lienholder, upon delivering to the director of revenue the certificate and an assignment by the lienholder named in the certificate in the form the director of revenue prescribes the application and the required fee.

3. If the certificate of ownership is being electronically retained by the director of revenue, the original lienholder may mail or deliver a notice of assignment of a lien to the director in a form prescribed by the director. Upon receipt of notice of assignment the director shall update the electronic certificate of ownership to reflect the assignment of the lien and lienholder.**]**

[304.156. NOTICE TO TOWING COMPANY, OWNER OR LIENHOLDER, WHEN — STORAGE CHARGES, WHEN AUTHORIZED — SEARCH OF VEHICLE FOR OWNERSHIP DOCUMENTS — PETITION, DETERMINATION OF WRONGFUL TAKING — POSSESSORY LIEN, NEW TITLE, HOW ISSUED — SALE OF ABANDONED PROPERTY BY MUNICIPALITY OR COUNTY — TOWING COMPANY, NEW TITLE WHEN. — 1. Within five working days of receipt of the crime inquiry and inspection report under section 304.155 or the abandoned property report under section 304.157, the director of revenue shall search the records of the department of revenue, or initiate an inquiry with another state, if the evidence presented indicated the abandoned property was registered or titled in another state, to determine the name and address of the owner and lienholder, if any. After ascertaining the name and address of the owner and lienholder, if any, the department shall, within fifteen working days, notify the towing company. Any towing company which comes into possession of abandoned property pursuant to section 304.155 or 304.157 and who claims a lien for recovering, towing or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the records of the department of revenue or of a corresponding agency in any other state. The towing company shall notify the owner and any lienholder within ten business days of the date of mailing indicated on the notice sent by the department of revenue, by certified mail, return receipt requested. The notice shall contain the following:

(1) The name, address and telephone number of the storage facility;

(2) The date, reason and place from which the abandoned property was removed;

(3) A statement that the amount of the accrued towing, storage and administrative costs are the responsibility of the owner, and that storage and/or administrative costs will continue to accrue as a legal liability of the owner until the abandoned property is redeemed;

(4) A statement that the storage firm claims a possessory lien for all such charges;

(5) A statement that the owner or holder of a valid security interest of record may retake possession of the abandoned property at any time during business hours by proving ownership or rights to a secured interest and paying all towing and storage charges;

(6) A statement that, should the owner consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in this section to contest the propriety of such towing or removal;

(7) A statement that if the abandoned property remains unclaimed for thirty days from the date of mailing the notice, title to the abandoned property will be transferred to the person or firm in possession of the abandoned property free of all prior liens; and

(8) A statement that any charges in excess of the value of the abandoned property at the time of such transfer shall remain a liability of the owner.

2. A towing company may only assess reasonable storage charges for abandoned property towed without the consent of the owner. Reasonable storage charges shall not

exceed the charges for vehicles which have been towed with the consent of the owner on a negotiated basis. Storage charges may be assessed only for the time in which the towing company complies with the procedural requirements of sections 304.155 to 304.158.

3. In the event that the records of the department of revenue fail to disclose the name of the owner or any lienholder of record, the department shall notify the towing company which shall attempt to locate documents or other evidence of ownership on or within the abandoned property itself. The towing company must certify that a physical search of the abandoned property disclosed that no ownership documents were found and a good faith effort has been made. For purposes of this section, "good faith effort" means that the following checks have been performed by the company to establish the prior state of registration and title:

(1) Check of the abandoned property for any type of license plates, license plate record, temporary permit, inspection sticker, decal or other evidence which may indicate a state of possible registration and title;

(2) Check the law enforcement report for a license plate number or registration number if the abandoned property was towed at the request of a law enforcement agency;

(3) Check the tow ticket/report of the tow truck operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and

(4) If there is no address of the owner on the impound report, check the law enforcement report to see if an out-of-state address is indicated on the driver license information.

4. If no ownership information is discovered, the director of revenue shall be notified in writing and title obtained in accordance with subsection 7 of this section.

5. (1) The owner of the abandoned property removed pursuant to the provisions of section 304.155 or 304.157 or any person claiming a lien, other than the towing company, within ten days after the receipt of notification from the towing company pursuant to subsection 1 of this section may file a petition in the associate circuit court in the county where the abandoned property is stored to determine if the abandoned property was wrongfully taken or withheld from the owner. The petition shall name the towing company among the defendants. The petition may also name the agency ordering the tow or the owner, lessee or agent of the real property from which the abandoned property was removed. The director of revenue shall not be a party to such petition but a copy of the petition shall be served on the director of revenue who shall not issue title to such abandoned property pursuant to this section until the petition is finally decided.

(2) Upon filing of a petition in the associate circuit court, the owner or lienholder may have the abandoned property released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the charges for towing and storage to ensure the payment of such charges in the event he does not prevail. Upon the posting of the bond and the payment of the applicable fees, the court shall issue an order notifying the towing company of the posting of the bond and directing the towing company to release the abandoned property. At the time of such release, after reasonable inspection, the owner or lienholder shall give a receipt to the towing company reciting any claims for loss or damage to the abandoned property or the contents thereof.

(3) Upon determining the respective rights of the parties, the final order of the court shall provide for immediate payment in full of recovery, towing, and storage fees by the abandoned property owner or lienholder or the owner, lessee, or agent thereof of the real property from which the abandoned property was removed.

6. A towing and storage lien shall be enforced as provided in subsection 7 of this section.

7. Thirty days after the notification form has been mailed to the abandoned property owner and holder of a security agreement and the property is unredeemed and no satisfactory arrangement has been made with the lienholder in possession for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in subsection 5 of this section, the lienholder in possession may apply to the director of revenue for a certificate. The application for title shall be accompanied by:

(1) An affidavit from the lienholder in possession that he has been in possession of the abandoned property for at least thirty days and the owner of the abandoned property or holder of a security agreement has not made arrangements for payment of towing and storage charges;

(2) An affidavit that the lienholder in possession has not been notified of any application for hearing as provided in this section;

(3) A copy of the abandoned property report or crime inquiry and inspection report;

(4) A copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest and a copy of the certified mail receipt indicating that the owner and lienholder of record was sent a notice as required in this section; and

(5) A copy of the envelope or mailing container showing the address and postal markings indicating that the notice was "not forwardable" or "address unknown".

8. If notice to the owner and holder of a security agreement has been returned marked "not forwardable" or "addressee unknown", the lienholder in possession shall comply with subsection 3 of this section.

9. Any municipality or county may adopt an ordinance regulating the removal and sale of abandoned property provided such ordinance is consistent with sections 304.155 to 304.158, and, for a home rule city with more than four hundred thousand inhabitants and located in more than one county, includes the following provisions:

(1) That the department of revenue records must be searched to determine the registered owner or lienholder of the abandoned property;

(2) That if a registered owner or lienholder is disclosed in the records, that the owner and lienholder or owner or lienholder are mailed a notice by the governmental agency, by U.S. mail, advising of the towing and impoundment;

(3) That if the vehicle is older than six years and more than fifty percent damaged by collision, fire, or decay, and has a fair market value of less than two hundred dollars as determined by using any nationally recognized appraisal book or method, it must be held no less than ten days after the notice is sent pursuant to this subsection before being sold to a licensed salvage or scrap business; provided however where a title is required under this chapter an affidavit from a certified appraiser attesting that the value of the vehicle is less than two hundred dollars;

(4) That all other vehicles must be held no less than thirty days after the notice is sent pursuant to this subsection before they may be sold.

10. Any municipality or county which has physical possession of the abandoned property and which sells abandoned property in accordance with a local ordinance may transfer ownership by means of a bill of sale signed by the municipal or county clerk or deputy and sealed with the official municipal or county seal. Such bill of sale shall contain the make and model of the abandoned property, the complete abandoned property identification number and the odometer reading of the abandoned property if available and shall be lawful proof of ownership for any dealer registered under the provisions of section 301.218, or section 301.560, or for any other person. Any dealer

or other person purchasing such property from a municipality or county shall apply within thirty days of purchase for a certificate. Anyone convicted of a violation of this section shall be guilty of an infraction.

11. Any persons who have towed abandoned property prior to August 28, 1996, may, until January 1, 2000, apply to the department of revenue for a certificate. The application shall be accompanied by:

(1) A notarized affidavit explaining the circumstances by which the abandoned property came into their possession, including the name of the owner or possessor of real property from which the abandoned property was removed;

(2) The date of the removal;

(3) The current location of the abandoned property;

(4) An inspection of the abandoned property as prescribed by the director; and

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

12. If the director is satisfied with the genuineness of the application and supporting documents submitted pursuant to this section, the director shall issue one of the following:

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

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

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

(4) Notwithstanding the provisions of section 301.573 to the contrary, if satisfied with the genuineness of the application and supporting documents, the director shall issue an original title to abandoned property previously issued a salvage title as provided in this section, if the vehicle examination certificate as provided in section 301.190 does not indicate the abandoned property was previously in a salvage condition or rebuilt.

13. If abandoned property is insured and the insurer of property regards the property as a total loss and the insurer satisfies a claim by the owner for the property, then the insurer or lienholder shall claim and remove the property from the storage facility or make arrangements to transfer the title, and such transfer of title subject to agreement shall be in complete satisfaction of all claims for towing and storage, to the towing company or storage facility. The owner of the abandoned vehicle, lienholder or insurer, to the extent the vehicle owner's insurance policy covers towing and storage charges, shall pay reasonable fees assessed by the towing company and storage facility. The property shall be claimed and removed or title transferred to the towing company or storage facility within thirty days of the date that the insurer paid a claim for the total loss of the property or is notified as to the location of the abandoned property, whichever is the later event. Upon request, the insurer of the property shall supply the towing company and storage facility with the name, address and phone number of the insurance company and of the insured and with a statement regarding which party is responsible for the payment of towing and storage charges under the insurance policy.**]**

[304.678. DISTANCE TO BE MAINTAINED WHEN OVERTAKING A BICYCLE — VIOLATION, PENALTY. — The operator of a motor vehicle overtaking a bicycle proceeding in the same direction on the roadway, as defined in section 300.010, shall

leave a safe distance when passing the bicycle, and shall maintain clearance until safely past the overtaken bicycle.**]**

[321.701. MEMBERS OF BOARD SUBJECT TO RECALL — EXCEPTIONS. — 1. Each member of a fire protection district board located in any county of the first classification with a population of nine hundred thousand or more inhabitants shall be subject to recall from office by the registered voters of the district from which he was elected. Proceedings may be commenced for the recall of any fire protection district board member by the filing of a notice of intention to circulate a recall petition pursuant to sections 321.701 to 321.716.

2. Proceedings may not be commenced against any member if, at the time of commencement, that member:

(1) Has not held office during his current term for a period of more than one hundred eighty days; or

(2) Has one hundred eighty days or less remaining in his term; or

(3) Has had a recall election determined in his favor within the current term of office.**]**

[321.714. CERTIFICATION OF PETITION BY ELECTION AUTHORITY, CONTENT, ELECTION TO BE HELD — CANDIDACY NOMINATION FILED — RESIGNATION BY BOARD MEMBER, RECALL TO BE REMOVED FROM BALLOT — RESIGNED BOARD MEMBER MAY NOT FILL VACANCY. — 1. If the election authority finds the signatures on the petition, together with the supplementary petition sections if any, to be sufficient, it shall submit its certificate as to the sufficiency of the petition to the fire protection district board prior to its next meeting. The certificate shall contain:

(1) The name of the member whose recall is sought;

(2) The number of signatures required by law;

(3) The total number of signatures on the petition;

(4) The number of valid signatures on the petition.

2. Following the fire protection board's receipt of the certificate, the election authority shall order an election to be held on one of the election days specified in section 115.123. The election shall be held not less than forty-five days nor more than one hundred twenty days after the fire protection district board receives the petition. Nominations hereunder shall be made by filing a statement of candidacy with the election authority.

3. At any time prior to forty-two days before the election, the member sought to be recalled may offer his resignation. If his resignation is offered, the recall question shall be removed from the ballot and the office declared vacant. The member who resigned may not fill the vacancy which shall be filled as provided by law.**]**

[324.712. CERTIFICATE OF INSURANCE REQUIRED. — 1. No license shall be issued or renewed unless the applicant files with the division a certificate or certificates of insurance from an insurance company or companies authorized to do business in this state. The applicant must demonstrate that he or she has:

(1) Motor vehicle insurance for bodily injury to or death of one or more persons in any one accident and for injury or destruction of property of others in any one accident with minimum coverage of five hundred thousand dollars;

(2) Comprehensive general liability insurance with a minimum coverage of two million dollars, including coverage of operations on state streets and highways that are not covered by motor vehicle insurance; and

(3) Workers' compensation insurance that complies with chapter 287 for all employees.

2. The certificate or certificates shall provide for continuous coverage during the effective period of the license issued pursuant to this section. At the time the certificate is filed, the applicant shall also file with the division a current list of all motor vehicles covered by the certificate. The applicant shall file amendments to the list within fifteen days of any changes.

3. An insurance company issuing any insurance policy required by this section shall notify the division of any of the following events at least thirty days before its occurrence:

(1) Cancellation of the policy;

(2) Nonrenewal of the policy by the company; or

(3) Any change in the policy.

4. In addition to all coverages required by this section, the applicant shall file with the division a copy of either:

(1) A bond or other acceptable surety providing coverage in the amount of fifty thousand dollars for the benefit of a person contracting with the housemover to move that person's house for all claims for property damage arising from the movement of a house; or

(2) A policy of cargo insurance in the amount of one hundred thousand dollars.**]**

[335.067. IMPAIRED NURSE PROGRAM MAY BE ESTABLISHED BY THE BOARD — PURPOSE OF PROGRAM — CONTRACTS — IMMUNITY FROM LIABILITY, WHEN — CONFIDENTIALITY OF RECORDS. — 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 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, 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 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 shall toll under subsection 7 of section 620.154. 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.

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.**]**

[339.040. LICENSES GRANTED TO WHOM — EXAMINATION — QUALIFICATIONS — FEE — TEMPORARY BROKER'S LICENSE, WHEN — RENEWAL, REQUIREMENTS. — 1. Licenses shall be granted only to persons who present, and corporations, associations, partnerships, limited partnerships and limited liability companies whose officers, professional corporations, managers, associates, general partners, or members who actively participate in such entity's brokerage, broker-salesperson, or salesperson business present, satisfactory proof to the commission that they:

(1) Are persons of good moral character; and

(2) Bear a good reputation for honesty, integrity, and fair dealing; and

(3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

2. In order to determine an applicant's qualifications to receive a license under sections 339.010 to 339.180 and sections 339.710 to 339.860, the commission shall hold oral or written examinations at such times and places as the commission may determine.

3. Each applicant for a broker or salesperson license shall be at least eighteen years of age and shall pay the broker examination fee or the salesperson examination fee.

4. Each applicant for a broker license shall be required to have satisfactorily completed the salesperson license examination prescribed by the commission. For the purposes of this section only, the commission may permit a person who is not associated with a licensed broker to take the salesperson examination.

5. Each application for a broker license shall include a certificate from the applicant's broker or brokers that the applicant has been actively engaged in the real estate business as a licensed salesperson for at least two years immediately preceding the date of application, and shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed broker curriculum or broker correspondence course offered by such school, except that the commission may waive all or part of the requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission. Each application for a broker-salesperson license shall include evidence of the current broker license held by the applicant.

6. Each application for a salesperson license shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed salesperson curriculum or salesperson correspondence course offered by such school, except that the commission may waive all or part of the educational requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission.

7. The commission may issue a temporary work permit pending final review and printing of the license to an applicant who appears to have satisfied the requirements for licenses. The commission may, at its discretion, withdraw the work permit at any time.

8. Every active broker, broker-salesperson, salesperson, officer, manager, general partner, member or associate shall provide upon request to the commission evidence that during the two years preceding he or she has completed twelve hours of real estate instruction in courses approved by the commission. The commission may, by rule and regulation, provide for individual waiver of this requirement.

9. Each entity that provides continuing education required under the provisions of subsection 8 of this section may make available instruction courses that the entity conducts through means of distance delivery. The commission shall by rule set standards for such courses. The commission may by regulation require the individual completing such distance-delivered course to complete an examination on the contents of the course. Such examination shall be designed to ensure that the licensee displays adequate knowledge of the subject matter of the course, and shall be designed by the entity producing the course and approved by the commission.

10. In the event of the death or incapacity of a licensed broker, or of one or more of the licensed general partners, officers, managers, members or associates of a real estate partnership, limited partnership, limited liability company, professional corporation, corporation, or association whereby the affairs of the broker, partnership, limited partnership, limited liability company, professional corporation, corporation, or association cannot be carried on, the commission may issue, without examination or fee, to the legal representative or representatives of the deceased or incapacitated individual, or to another individual approved by the commission, a temporary broker license which shall authorize such individual to continue for a period to be designated by the commission to transact business for the sole purpose of winding up the affairs

of the broker, partnership, limited partnership, limited liability company, professional corporation, corporation, or association under the supervision of the commission.**]**

[361.170. EXPENSES OF EXAMINATION, HOW PAID — SALARY SCHEDULE FOR DIVISION EMPLOYEES TO BE MAINTAINED — DIVISION OF FINANCE FUND, CREATED, USES, TRANSFERS TO GENERAL REVENUE FUND, WHEN. — 1. The expense of every regular and every special examination, together with the expense of administering the banking laws, including salaries, travel expenses, supplies and equipment, and including the direct and indirect expenses for rent and other supporting services furnished by the state, shall be paid by the banks and trust companies of the state, and for this purpose the director shall, prior to the beginning of each fiscal year, make an estimate of the expenses to be incurred by the division during such fiscal year. To this there shall be added an amount not to exceed fifteen percent of the estimated expenses to pay the costs of rent and other supporting services such as the costs related to the division's services from the state auditor and attorney general and an amount sufficient to cover the cost of fringe benefits furnished by the state. From this total amount the director shall deduct the estimated amount of the anticipated annual income to the fund from all sources other than bank or trust company assessments. The director shall allocate and assess the remainder to the several banks and trust companies in the state on the basis of a weighted formula to be established by the director, which will take into consideration their total assets, as reflected in the last preceding report called for by the director pursuant to the provisions of section 361.130 or from information obtained pursuant to subsection 3 of section 361.130 and, for trust companies which do not take deposits or make loans, the volume of their trust business, and the relative cost, in salaries and expenses, of examining banks and trust companies of various size and this calculation shall result in an assessment for each bank and trust company which reasonably represents the costs of the division of finance incurred with respect to such bank or trust company. A statement of such assessment shall be sent by the director to each bank and trust company on or before July first. One-half of the amount so assessed to each bank or trust company shall be paid by it to the state director of the department of revenue on or before July fifteenth, and the remainder shall be paid on or before January fifteenth of the next year.

2. Any expenses incurred or services performed on account of any bank, trust company or other corporation subject to the provisions of this chapter, outside of the normal expense of any annual or special examination, shall be charged to and paid by the corporation for whom they were incurred or performed. Fees and charges to other corporations subject to this chapter shall be reviewed at least annually by the division of finance to determine whether regulatory costs are offset by the fees and charges and the director of the division of finance shall revise fees and charges to fully recover such costs to the extent allowed by law or recommend to the general assembly necessary statutory changes to fully recover such costs.

3. The director of the division of finance shall prepare and maintain an equitable salary schedule for examiners, professional staff, and support personnel that are employees of the division. Personnel employed by the division shall be compensated according to the following schedule, provided that such expense of administering the banking laws is assessed and paid in accordance with this section. The positions and classification plan for such personnel attributed to the examination of the state bank and trust companies shall allow for a comparison of such positions with similar bank examiner positions at federal bank regulatory agencies. State bank examiner positions shall not be compensated at more than ninety percent of parity for corresponding federal positions for similar geographic locations in the state as determined by the director of the division of finance.

4. The state treasurer shall credit such payments to a special fund to be known as the "Division of Finance Fund", which is hereby created and which shall be devoted solely to the payment of expenditures actually incurred by the division and attributable to the regulation of banks, trust companies, and other corporations subject to the jurisdiction of the division. Any amount, other than the amount not to exceed fifteen percent for supporting services and the amount of fringe benefits described in subsection 1 of this section, remaining in such fund at the end of any fiscal year and any earnings attributed to such fund shall not be transferred and placed to the credit of the general revenue fund as provided in section 33.080, but shall be applicable by appropriation of the general assembly to the payment of such expenditures of the division in the succeeding fiscal year and shall be applied by the division to the reduction of the amount to be assessed to banks and trust companies in such succeeding fiscal year; provided the amount not to exceed fifteen percent for supporting services and the amount of fringe benefits described in subsection 1 of this section shall be returned to general revenue to the extent supporting services are not directly allocated to the fund.**]**

[370.107. ANNUAL FEE — HOW COMPUTED — DIVISION OF CREDIT UNIONS FUND, CREATED, USES — SALARY SCHEDULE OF DIVISION EMPLOYEES TO BE MAINTAINED. — 1. Every credit union organized pursuant to section 370.010 and operating pursuant to the laws of this state shall pay to the department of revenue a fee determined by the director based on the total assets of the credit union as of December thirty-first of the preceding fiscal year. One-half of the fee shall be paid on or before July fifteenth, and the balance shall be paid on or before January fifteenth of the next succeeding year. The maximum fee shall be calculated according to the following table:

Total Assets	Fee
Under $2,000,000	$ 0.125 per $1,000 of assets up to a maximum of $250
$2,000,000 or more but less than $5,000,000	$250, plus $1 per $1,000 of assets in excess of $2,000,000
$5,000,000 or more but less than $10,000,000	$3,250, plus $0.35 per $1,000 of assets in excess of $5,000,000
$10,000,000 or more but less than $25,000,000	$5,000, plus $0.20 per $1,000 of assets in excess of $10,000,000
$25,000,000 or more	$8,000, plus $0.15 per $1,000 of assets in excess of $25,000,000.

The shares of one credit union which are owned by another credit union shall be excluded from the assets of the first credit union for the purpose of computing the

supervisory fee levied pursuant to this section. All fees assessed shall be accounted for as prepaid expenses on the books of the credit union.

2. The state treasurer shall credit such payments, including all fees and charges made pursuant to this chapter to a special fund to be known as the "Division of Credit Unions Fund", which is hereby created and which shall be devoted solely and exclusively to the payment of expenditures actually incurred by the division and attributable to the regulation of credit unions. Any amount remaining in such fund at the end of any fiscal year and any earnings attributed to such fund shall not be transferred and placed to the credit of the general revenue fund as provided in section 33.080 but shall be used, upon appropriation by the general assembly, for the payment of such expenditures of the division in the succeeding fiscal year and shall be applied by the division to the reduction of the amount to be assessed to credit unions in such succeeding fiscal year. In the event two or more credit unions are merged or consolidated, such excess amounts shall be credited to the surviving or new credit union.

3. The expense of every regular and every special examination, together with the expenses of administering the laws pertaining to credit unions, including salaries, travel expenses, supplies and equipment, credit union commission expenses of administrative and clerical assistance, legal costs and any other reasonable expense in the performance of its duties, and an amount not to exceed fifteen percent of the above-estimated expenses to pay the actual costs of rent, utilities, other occupancy expenses and other supporting services furnished by any department, division or executive office of this state and an amount sufficient to cover the cost of fringe benefits shall be paid by the credit unions of this state by the payment of fees yielded by this section.

4. The director of the division of credit unions shall prepare and maintain an equitable salary schedule for examiners, professional staff, and support personnel who are employees of the division. Personnel employed by the division shall be compensated according to this schedule, provided that such expense of administering the credit union laws is assessed and paid in accordance with this section. The positions and classification plan for such personnel attributed to the examination of the state credit unions shall allow for a comparison of such positions with similar examiner positions at federal credit union regulatory agencies. State credit union examiner positions shall not be compensated more than ninety percent of parity for corresponding federal positions for similar geographic locations in Missouri as determined by the director of the division of credit unions. Personnel employed by the division shall be compensated according to this schedule, provided that such expense of administering the credit union laws is assessed and paid in accordance with this section.**]**

[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 institutions and professional registration;

(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.**]**

[393.906. POWERS AND DUTIES. — A nonprofit water company shall have power:

(1) To sue and be sued, in its corporate name;

(2) To have succession by its corporate name for the period stated in its articles of incorporation or, if no period is stated in its articles of incorporation, to have such succession perpetually;

(3) To adopt a corporate seal and alter the same at pleasure;

(4) To provide water treatment services to its members, to governmental agencies and political subdivisions;

(5) To make loans to persons to whom water treatment is or will be supplied by the company for the purpose of, and otherwise to assist such persons in, installing therein plumbing fixtures, appliances, apparatus and equipment of any and all kinds and character, and in connection with such installation to purchase, acquire, lease, sell, distribute, install and repair such plumbing fixtures, appliances, apparatus and equipment, and to accept or otherwise acquire, and to sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of notes, bonds and other evidences of indebtedness and any and all types of security for such indebtedness;

(6) To make loans to persons to whom water treatment is or will be supplied by the company for the purpose of, and otherwise to assist such persons in, constructing, maintaining and operating commercial or industrial plants or facilities;

(7) To construct, purchase, take, receive, lease as lessee or otherwise acquire, and to own, hold, use, equip, maintain and operate, and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge or otherwise dispose of or encumber, water provision or collection or treatment systems, plants, lands, buildings, structures, dams and equipment, and any and all kinds and classes of real or personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the company is organized;

(8) To purchase or otherwise acquire, and to own, hold, use and exercise and to sell, assign, transfer, convey, mortgage, pledge, hypothecate or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way and easements;

(9) To borrow money and otherwise contract indebtedness, and to issue notes, bonds and other evidences of indebtedness, and to secure the payment of such indebtedness by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then-owned or after-acquired real or personal property, assets, franchises, revenues or income;

(10) To construct, maintain and operate water distribution and collection and treatment plants and lines along, upon, under and across all public thoroughfares, including without limitation, all roads, highways, streets, alleys, bridges and causeways, and upon, under and across all publicly owned lands;

(11) To exercise the power of eminent domain in the manner provided by the laws of this state for the exercise of that power by corporations constructing or operating electric transmission and distribution lines or systems;

(12) To conduct its business and exercise any or all of its powers within or without this state;

(13) To adopt, amend and repeal bylaws; and

(14) To do and perform any and all other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the company is organized.**]**

[393.921. MEMBERS MUST USE SERVICES OF NONPROFIT WATER COMPANY IF AVAILABLE — MEMBERSHIP NOT TRANSFERABLE, EXCEPTION — MEETINGS, HOW CALLED, NOTICE, PROCEDURE. — 1. No person shall become a member of a nonprofit water company unless such person shall agree to use services furnished by the company when such shall be available through its facilities. The bylaws of a company may provide that any person, including an incorporator, shall cease to be a member of such company if such person shall fail or refuse to use services made available by the company or if services shall not be made available to such person by the company within a specified time after such person shall have become a member of such company. Membership in the company shall not be transferable, except as provided in the bylaws. The bylaws may prescribe additional qualifications and limitations with respect to membership.

2. An annual meeting of the members shall be held at such time as shall be provided in the bylaws.

3. Special meetings of the members may be called by the board of directors, by any three directors, by not less than ten percent of the members or by the president.

4. Meetings of members shall be held at such place as may be provided in the bylaws. In the absence of any such provisions, all meetings shall be held in the city or town in which the principal office of the company is located.

5. Except as otherwise provided in sections 393.900 to 393.951, written or printed notice stating the time and place of each meeting of members and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given

to each member, either personally or by mail, not less than ten nor more than twenty-five days before the date of the meeting.

6. Two percent of the members, present in person or by mail or proxy shall constitute a quorum for the transaction of business at all meetings of the members, unless the bylaws prescribe the presence of a greater percentage of the members for a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.

7. Each member shall be entitled to one vote on each matter submitted to a vote at a meeting. Voting shall be in person, but, if the bylaws so provide, may also be by proxy or by mail, or both. If the bylaws provide for voting by proxy or by mail, they shall also prescribe the conditions under which proxy or mail voting shall be exercised.**]**

[441.236. DISCLOSURES REQUIRED FOR TRANSFER OF PROPERTY WHERE METHAMPHETAMINE PRODUCTION OCCURRED. — 1. In the event that any premises to be leased by a landlord is or was used as a site for methamphetamine production, the landlord shall disclose in writing to the tenant the fact that methamphetamine was produced on the premises, provided that the landlord had knowledge of such prior methamphetamine production. The landlord shall disclose any prior knowledge of methamphetamine production, regardless of whether the persons involved in the production were convicted for such production.

2. A landlord shall disclose in writing the fact that any premises to be leased by the landlord either was the place of residence of a person convicted of any of the following crimes, or was the storage site or laboratory for any of the substances for which a person was convicted of any of the following crimes, provided that the landlord knew or should have known of such convictions:

(1) Creation of a controlled substance in violation of section 195.420;

(2) Possession of ephedrine with intent to manufacture methamphetamine in violation of section 195.246;

(3) Unlawful use of drug paraphernalia with the intent to manufacture methamphetamine in violation of subsection 2 of section 195.233;

(4) Endangering the welfare of a child by any of the means described in subdivision (4) or (5) of subsection 1 of section 568.045; or

(5) Any other crime related to methamphetamine, its salts, optical isomers and salts of its optical isomers either in chapter 195 or in any other provision of law.**]**

[470.270. MONEY OR EFFECTS INVOLVED IN LITIGATION — DISPOSITION — UNCLAIMED PROPERTY, STATE MAY BRING ACTION TO RECOVER, WHEN, EXCEPTIONS. — 1. Notwithstanding any other provision of this chapter, after the owner, the owner's assignee, personal representative, grantee, heirs, devisees or other successors, entitled to any moneys, refund of rates or premiums or effects by reason of any litigation concerning rates, refunds, refund of premiums, fares or charges collected by any person or corporation in the state of Missouri for any service rendered or to be rendered in said state, or for any contract of insurance on property in this state, or under any contract of insurance performed or to be performed in said state, which moneys, refund of rates or premiums or effects have been paid into or deposited in connection with any cause in any court of the state of Missouri or in connection with any cause in any United States court, or so paid into the custody of any depositary, clerk, custodian, or other officer of such court, whether the same be afterwards transferred and deposited in the United States treasury or not, shall be and remain unknown, or the whereabouts of such person or persons shall be and has been unknown, for the period heretofore, or hereafter, of three successive years, or such moneys, refund of rates or premiums or

effects remain unclaimed for the period heretofore, or hereafter, of three successive years, from the time such moneys or property are ordered repaid or distributed by such courts, such moneys or property shall be deemed abandoned and transferred to the state of Missouri, with all interest and earnings actually accrued thereon to the date of transfer of the same. All moneys or property transferring to the state pursuant to this section shall be deemed unclaimed property under the uniform disposition of unclaimed property act as set forth in chapter 447 and shall be treated in the same manner as all other unclaimed property under such act.

2. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to subsection 3 of section 470.020 and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 163.005.**]**

[565.082. ASSAULT OF A LAW ENFORCEMENT OFFICER, CORRECTIONS OFFICER, EMERGENCY PERSONNEL, HIGHWAY WORKER, OR PROBATION AND PAROLE OFFICER IN THE SECOND DEGREE, DEFINITION, PENALTY. — 1. A person commits the crime of assault of a law enforcement officer, corrections officer, emergency personnel, or probation and parole officer in the second degree if such person:

(1) Knowingly causes or attempts to cause physical injury to a law enforcement officer, corrections officer, emergency personnel, or probation and parole officer by means of a deadly weapon or dangerous instrument;

(2) Knowingly causes or attempts to cause physical injury to a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer by means other than a deadly weapon or dangerous instrument;

(3) Recklessly causes serious physical injury to a law enforcement officer, corrections officer, emergency personnel, or probation and parole officer; or

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

(5) Acts with criminal negligence to cause physical injury to a law enforcement officer, corrections officer, emergency personnel, or probation and parole officer by means of a deadly weapon or dangerous instrument;

(6) Purposely or recklessly places a law enforcement officer, corrections officer, emergency personnel, or probation and parole officer in apprehension of immediate serious physical injury; or

(7) Acts with criminal negligence to create a substantial risk of death or serious physical injury to a law enforcement officer, corrections officer, emergency personnel, or probation and parole officer.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), (17), and (18) of section 190.100.

3. As used in this section the term "corrections officer" includes any jailer or corrections officer of the state or any political subdivision of the state.

4. Assault of a law enforcement officer, corrections officer, emergency personnel, or probation and parole officer in the second degree is a class B felony unless committed pursuant to subdivision (2), (5), (6), or (7) of subsection 1 of this section in which case it is a class C felony.**]**

[644.031. STORM WATER CONTROL, FIRST CLASS COUNTIES, KANSAS CITY AND ST. LOUIS — DISTRIBUTION OF FUNDS — PLAN REQUIRED — CONTRACTS FOR CONSTRUCTION TO BE MADE WITHIN EIGHTEEN MONTHS — UNUSED FUNDS RETURNED TO CLEAN WATER COMMISSION — REDISTRIBUTION OF FUND TO ALL ELIGIBLE CITIES AND COUNTIES — STATE TO PAY ONE-THIRD OF COST — DISTRIBUTION DIRECTLY TO DISTRICTS IN CERTAIN CITIES AND COUNTIES. — 1. The general assembly may appropriate funds to the clean water commission of the department of natural resources for the control of storm water in any county of the first classification or in any city with a population between three hundred fifty thousand and five hundred thousand, or any city not within a county. The commission shall administer and expend such funds in accordance with the terms of the appropriation.

2. The commission shall administer and expend such funds in the following manner:

(1) The funds shall be distributed based on the percentage of the population of a county or city that is eligible pursuant to this section in relation to the combined population of all counties and cities that are eligible for such funds pursuant to this section, according to the most recent federal decennial census. Participating counties or cities must have a comprehensive storm water control plan or study approved by the Missouri clean water commission, or a comparable study acceptable to the U.S. Army Corps of Engineers and approved by the commission, prior to being eligible, however, a comprehensive storm water control plan or study prepared by any city or other political subdivision within a participating county may be accepted by the clean water commission in lieu of a county plan or study;

(2) The commission shall obligate all funds appropriated under this section to qualifying political subdivisions for storm water projects or for a comprehensive storm water control plan or study approved by the Missouri clean water commission prior to the end of the fiscal year of the appropriation or reappropriation. The political subdivisions receiving assistance under this section shall award all significant construction contracts for their projects within eighteen months of the appropriation or reappropriation;

(3) Any funds remaining unobligated at the end of the fiscal year together with any funds obligated for construction contracts which were not awarded within eighteen months of the appropriation or reappropriation shall be returned to the commission and redistributed in accordance with this section.

3. Funds authorized by the general assembly for storm water control to an eligible county or city may be expended for no more than one-third of the costs of any one storm water project.

4. Other provisions of this section notwithstanding, in those cities or counties served by a sewer district established pursuant to article VI, section 30(a) of the Constitution of the state of Missouri, any grants or loans awarded shall be disbursed directly to such district.**]**

[644.568. COMMISSIONERS MAY BORROW ADDITIONAL $10,000,000 FOR RURAL WATER AND SEWER PROJECT GRANTS AND LOANS. — In addition to those sums authorized prior to August 28, 1999, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars for the purposes of financing and constructing improvements as set out in this chapter. The department shall allocate these funds to counties, municipalities, sewer districts, water

districts, or any combination of the same to provide grants and loans for rural water and sewer projects.**]**

Approved July 5, 2011

HB 338 [SS HCS HB 338]

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 telecommunications company may elect to be exempt from certain rules if giving written notice to the Missouri Public Service Commission

AN ACT to amend chapter 392, RSMo, by adding thereto one new section relating to telecommunications.

SECTION
A. Enacting clause.
392.461. Exemption from certain rules, telecommunications companies.

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

SECTION A. ENACTING CLAUSE. — Chapter 392, RSMo, is amended by adding thereto one new section, to be known as section 392.461, to read as follows:

392.461. EXEMPTION FROM CERTAIN RULES, TELECOMMUNICATIONS COMPANIES. — A telecommunications company may, upon written notice to the commission, elect to be exempt from certain retail rules relating to:

(1) The provision of telecommunications service to retail customers and established by the commission which include provisions already mandated by the Federal Communications Commission, including but not limited to federal rules regarding customer proprietary network information, verification of orders for changing telecommunications service providers (slamming), submission or inclusion of charges on customer bills (cramming); or

(2) The installation, provisioning, or termination of retail service.

Notwithstanding any other provision of this section, a telecommunications company shall not be exempt from any commission rule established under authority delegated to the state commission pursuant to federal statute, rule or order, including but not limited to universal service funds, number pooling and conservation efforts, or any authority delegated to the state commission to facilitate or enforce any interconnection obligation or other intercarrier issue, including but not limited to, intercarrier compensation, network configuration or other such matters. Notwithstanding other provisions of this chapter or chapter 386, a telecommunications company may, upon written notice to the commission, elect to be exempt from any requirement to file or maintain with the commission any tariff or schedule of rates, rentals, charges, privileges, facilities, rules, regulations, or forms of contract for telecommunications services offered or provided to residential or business retail end user customers and instead, shall publish generally available retail prices for those services available to the public by posting such prices on a publicly accessible website. Nothing in this section shall affect the rights and obligations of any entity, including the commission, established pursuant to federal law, including 47 U.S.C. Sections 251 and 252, any state law, rule, regulation, or order related to wholesale rights

and obligations, or any tariff or schedule that is filed with and maintained by the commission.

Approved July 8, 2011

HB 339 [SS HB 339]

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 telecommunications as they relate to the carrier of last resort obligations

AN ACT to repeal section 392.460, RSMo, and to enact in lieu thereof one new section relating to telecommunications.

SECTION

A. Enacting clause.
392.460. Abandonment of service, commission must approve — definitions — carriers of last resort, relief from obligation, when, criteria, waivers — exemption for St. Louis County*, St. Louis City, portions of Kansas City.

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

SECTION A. ENACTING CLAUSE. — Section 392.460, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 392.460, to read as follows:

392.460. ABANDONMENT OF SERVICE, COMMISSION MUST APPROVE — DEFINITIONS — CARRIERS OF LAST RESORT, RELIEF FROM OBLIGATION, WHEN, CRITERIA, WAIVERS — EXEMPTION FOR ST. LOUIS COUNTY*, ST. LOUIS CITY, PORTIONS OF KANSAS CITY. — 1. As used in this section, the following words shall mean:

(1) "Alternative service provider", any person or entity providing local voice services, or any person or entity allowing another person or entity to use its equipment or facilities to provide local voice services, or any person or entity securing rights to select an alternative service provider for a property owner or developer. Alternative service provider shall not include an incumbent local exchange carrier providing service within its commission-approved local exchange service area;

(2) "Greenfield area", real property that requires entirely new construction of local loops or local connectivity in addition to the deployment of any necessary switching and other network equipment to serve new real property developments;

(3) "Local voice service" or "local voice services", any two-way voice service offered through any form of technology that is capable of placing calls to or receiving calls from a provider of basic local telecommunications services, including voice over internet protocol services;

(4) "Owner or developer", an entity that owns or develops a business or residential property, any condominium association or homeowner's association thereof, any person or entity having ownership in or control over the property, or any person acting on behalf of such owner or developer;

(5) "Real property", any single tenant or multitenant business or residential property, subdivisions, condominiums, apartments, office buildings, or office parks.

2. No telecommunications company authorized by the commission to provide or offer basic local or basic interexchange telecommunications service within the state of Missouri on January 1, 1984, shall abandon such service until and unless it shall demonstrate, and the commission

finds, after notice and hearing, that such abandonment will not deprive any customers of basic local or basic interexchange telecommunications service or **[**access thereto**] access to local voice service** and is not otherwise contrary to the public interest.

3. Notwithstanding other provisions of this chapter or chapter 386, a local exchange carrier obligated under this section to serve as the carrier of last resort in greenfield areas shall automatically be relieved of such obligation and shall not be obligated to provide basic local voice service or any telecommunications service to any occupants of real property if the owner or developer of the real property, or a person acting on behalf of the owner or developer of real property, engages in any of the following acts:

(1) Permits an alternative service provider to install its facilities or equipment used to provide local voice services based on a condition of exclusion of the local exchange carrier during the construction phase of the real property;

(2) Accepts or agrees to accept incentives or rewards from an alternative service provider that are contingent upon the provision of any or all local voice services by one or more alternative service providers to the exclusion of the local exchange carrier; or

(3) Collects from the occupants or residents of the real property mandatory charges for the provision of any local voice service provided by an alternative service provider to the occupants or residents in any manner, including, but not limited to, collection through rent, fees, or dues.

4. The local exchange carrier relieved of its carrier of last resort obligation to provide basic local telecommunications service to the occupants of real property under subsection 3 of this section shall notify the commission in writing of that fact within one hundred twenty days after receiving knowledge of the existence of such fact.

5. A local exchange carrier that is not relieved of its carrier of last resort obligation under subsections 2 and 3 of this section may seek a waiver of its carrier of last resort obligation from the commission for good cause shown based on the facts and circumstances of the provision of local voice service or internet access services or video services to a particular real property. Upon petition for such relief, notice shall be given by the local exchange carrier at the same time to the relevant owner or developer. The commission shall make a determination concerning the petition on or before ninety days after such petition is filed, unless the commission determines that good cause exists to delay the determination for an additional ninety days and that such delay is not likely to have a materially adverse effect upon consumers of telecommunications services.

6. If a local exchange carrier is relieved of its carrier of last resort obligation under subsection 3 or 5 of this section, the owner or developer shall notify all occupants and any subsequent owner of the specific real property of the following:

(1) That the incumbent local exchange carrier does not have facilities installed to serve the specific real property, and that such carrier has been relieved of its carrier of last resort obligations; and

(2) The name of the person that will be providing local telecommunications service to the real property, and the type of technology that will be used to provide such service.

7. If all conditions described in subsection 3 and the conditions that form the basis for relief under subsection 5 of this section cease to exist at the property, no company is providing local voice service there, and either:

(1) The owner or developer requests in writing that the local exchange carrier make local voice service available to occupants of the real property and the owner or developer confirms in writing that all conditions described in subsections 3 and 5 of this section have ceased to exist at the property; or

(2) A petition is submitted to the local exchange carrier by at least fifty percent plus one of the residents of the real property requesting that the local exchange carrier make local voice service available to the residents and the petition confirms in writing that all

conditions described in subsections 3 and 5 of this section have ceased to exist at the property;

the carrier of last resort obligation under this section shall again apply to the local exchange carrier at the real property. The local exchange carrier shall provide notice to the commission that it is assuming the carrier of last resort obligation. The local exchange carrier may require that the owner or developer pay the local exchange carrier in advance a reasonable fee to recover costs that exceed the costs that would have been incurred to construct or acquire facilities to serve customers at the real property initially. The commission may verify that the fee enables the local exchange carrier to recover its costs that exceed the costs that would have been incurred to construct or acquire facilities to serve customers at the real property initially, including, but not limited to, amounts necessary to install or retrofit any facilities or equipment, to cut or trench sidewalks and streets, and to restore roads, sidewalks, block walls, or landscapes to original conditions. The local exchange carrier shall have a reasonable period of time, but not to exceed one hundred eighty days, following the request or petition under this subsection to provide local voice service.

If the conditions described in subsection 3 of this section or the conditions that form the basis for relief under subsection 5 of this section again exist at the real property, the relief in subsection 3 or 5 of this section shall again apply.

8. When real property is located in a greenfield area, a carrier of last resort shall not automatically be excused from its obligations under subsection 3 of this section unless the alternative service provider possesses or will possess at the time of commencement of service the capability to provide local voice service or the functional equivalent of such service through any form of technology.

9. If an owner or developer of real property permits an alternative service provider to install its facilities or equipment used to provide local voice service to such property based on a condition of exclusion of the local exchange carrier, the owner or developer shall provide written notice to the purchaser of any such real property that there is an exclusion of that local exchange carrier and that the alternative service provider is the exclusive provider of service to such property.

10. An incumbent local exchange carrier shall have the right to require a payment from an owner or developer in cases where the costs of extending facilities to serve a multi tenant business or residential property, including, but not limited to, apartments, condominiums, subdivisions, office buildings, or office parks are not economically reasonable. The terms and conditions applicable to such payments shall be specified in the incumbent local exchange carrier's tariffs. An incumbent local exchange carrier shall not be obligated to provide local voice service or any other telecommunications service without payment specified in the incumbent local exchange carrier's tariff.

11. Notwithstanding other provisions of this chapter or chapter 386, a telecommunications company may meet its carrier of last resort obligations and its obligations to provide or offer basic local or basic interexchange telecommunications service by providing local voice service using any technology. If a telecommunications company uses a wireless technology, such company shall meet such obligations by using a technology that provides 911 caller location technology that meets or exceeds wireless Phase II enhanced 911 rules requirements, as adopted by the Federal Communications Commission.

12. Any local exchange carrier relieved of its carrier of last resort obligation in a particular area under subsection 3 or 5 of this section shall not be deemed to have lost its general designation as carrier of last resort for essential local telecommunications service outside that area for purposes of subsection 5 of section 392.248.

13. When a local exchange carrier is relieved of the carrier of last resort obligation to serve in a designated area, in no instance shall the carrier of last resort obligation be transferred to any alternative service provider or provider of local voice service, including interconnected voice over internet protocol service in that designated service area.

14. Notwithstanding other provisions of this chapter or chapter 386, any telecommunications company may, upon notice to the commission, elect to no longer be designated as a carrier of last resort for any telecommunications service within any county with a charter form of government and with more than eight hundred thousand inhabitants, any city not within a county, and the portion of any home rule city with more than four hundred thousand inhabitants and located in more than one county that is located in any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants. Upon such election, a telecommunications company shall not be required to provide or offer basic local or basic interexchange telecommunications service and may provide local voice service using any technology.

15. Notwithstanding any other provision of this section or other law to the contrary, no telecommunications company shall receive state high-cost universal service fund support in a high-cost area as described under section 392.248 for any area where such company has been relieved of its carrier of last resort obligation under this section; however, such company shall not be ineligible to receive state high-cost universal service fund support in other areas where it retains the carrier of last resort obligation.

Approved June 22, 2011

HB 340 [HB 340]

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 counties of any classification to erect and maintain a jail or holding cell facility at a site other than the county seat and changes the laws regarding the circuit court in Cape Girardeau County

AN ACT to repeal sections 49.310, 478.711, and 483.420, RSMo, and to enact in lieu thereof three new sections relating to the erection and maintenance of jails, with an emergency clause for a certain section.

SECTION

A. Enacting clause.
49.310. County commission to erect and maintain courthouses, jails — issue bonds — certain counties authorized to maintain jails outside boundaries of county seat.
478.711. Circuit court, where may be held — probate division, where offices may be maintained.
483.420. Circuit clerk, office (Cape Girardeau County).
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 49.310, 478.711, and 483.420, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 49.310, 478.711, and 483.420, to read as follows:

49.310. COUNTY COMMISSION TO ERECT AND MAINTAIN COURTHOUSES, JAILS — ISSUE BONDS — CERTAIN COUNTIES AUTHORIZED TO MAINTAIN JAILS OUTSIDE BOUNDARIES OF

COUNTY SEAT. — 1. Except as provided in sections 221.400 to 221.420 and subsection 2 of this section, the county commission in each county in this state shall erect and maintain at the established seat of justice a good and sufficient courthouse, jail and necessary fireproof buildings for the preservation of the records of the county; except, that in counties having a special charter, the jail or workhouse may be located at any place within the county. In pursuance of the authority herein delegated to the county commission, the county commission may acquire a site, construct, reconstruct, remodel, repair, maintain and equip the courthouse and jail, and in counties wherein more than one place is provided by law for holding of court, the county commission may buy and equip or acquire a site and construct a building or buildings to be used as a courthouse and jail, and may remodel, repair, maintain and equip buildings in both places. The county commission may issue bonds as provided by the general law covering the issuance of bonds by counties for the purposes set forth in this section. In bond elections for these purposes in counties wherein more than one place is provided by law for holding of court, a separate ballot question may be submitted covering proposed expenditures in each separate site described therein, or a single ballot question may be submitted covering proposed expenditures at more than one site, if the amount of the proposed expenditures at each of the sites is specifically set out therein.

2. The county commission in all counties of the fourth classification and any county of the third**, second, or first** classification **[**with a population of at least fourteen thousand and not more than fourteen thousand five hundred inhabitants bordering a county of the first classification without a charter form of government with a population of at least eighty thousand and not more than eighty-three thousand inhabitants**]** may provide for the erection and maintenance of a good and sufficient jail or holding cell facility at a site in the county other than at the established seat of justice.

478.711. CIRCUIT COURT, WHERE MAY BE HELD — PROBATE DIVISION, WHERE OFFICES MAY BE MAINTAINED. — 1. Within Cape Girardeau County the circuit court **[**shall**] may** hold court in the courthouses at Jackson and at Cape Girardeau, and while holding court at Jackson may be known as the "Circuit Court of Cape Girardeau County at Jackson" and while holding court at Cape Girardeau may be known as the "Circuit Court of Cape Girardeau County at Cape Girardeau". All matters which are handled by circuit judges or associate circuit judges of the circuit court of Cape Girardeau County may be handled at either of the locations.

2. The probate division of the circuit court of Cape Girardeau County **[**shall**] may** maintain an office at the courthouse in Jackson and an office at the courthouse in Cape Girardeau.

483.420. CIRCUIT CLERK, OFFICE (CAPE GIRARDEAU COUNTY). — The circuit clerk of Cape Girardeau County **[**shall**] may** maintain and staff offices at the courthouses in Jackson and Cape Girardeau.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to protect the citizens of this state, the repeal and reenactment of section 49.310 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 49.310 of section A of this act shall be in full force and effect upon its passage and approval.

Approved July 1, 2011

HB 344 [SCS HCS 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.

Establishes the Farm-to-Table Advisory Board and changes the laws regarding the Commodity Merchandising Council Program

AN ACT to repeal section 275.360, RSMo, and to enact in lieu thereof two new sections relating to farming.

SECTION

A. Enacting clause.
262.950. Board created, definitions, members, mission, duties — report — meetings — expiration date.
275.360. Refund of fees, request for.

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

SECTION A. ENACTING CLAUSE. — Section 275.360, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 262.950 and 275.360, to read as follows:

262.950. BOARD CREATED, DEFINITIONS, MEMBERS, MISSION, DUTIES — REPORT — MEETINGS — EXPIRATION DATE. — 1. As used in this section, the following terms shall mean:

(1) "Locally grown agricultural products", food or fiber produced or processed by a small agribusiness or small farm;

(2) "Small agribusiness", an independent agribusiness located in Missouri with gross annual sales of less than five million dollars;

(3) "Small farm", an independent family-owned farm in Missouri with at least one family member working in the day-to-day operation of the farm.

2. There is hereby created an advisory board, which shall be known as the "Farm-to-Table Advisory Board". The board shall be made up of at least one representative from the following agencies: the University of Missouri-extension service, the department of agriculture, the department of elementary and secondary education, the department of economic development, the department of corrections, and the office of administration. In addition, the director of the department of agriculture shall appoint one person actively engaged in the practice of small agribusiness. The representative for the department of agriculture shall serve as the chairperson for the board and shall coordinate the board meetings. The board shall hold at least two meetings, but may hold more as it deems necessary to fulfill its requirements under this section. Staff of the department of agriculture may provide administrative assistance to the board if such assistance is required.

3. The mission of the board is to provide recommendations for strategies that:

(1) Allow schools and state institutions to more easily incorporate locally grown agricultural products into their cafeteria offerings, salad bars, and vending machines; and

(2) Increase public awareness of local agricultural practices and the role that local agriculture plays in sustaining healthy communities and supporting healthy lifestyles.

4. In fulfilling its mission under this section, the board shall:

(1) Investigate the status and availability of local, state, federal, and any other public or private resources that may be used to:

(a) Link schools and state institutions with local and regional farms for the purchase of locally grown agricultural products;

(b) Increase market opportunities for locally grown agricultural products;

(c) Assist schools and other entities with education campaigns that teach children and the general public about the concepts of food production and consumption; the interrelationships between nutrition, food choices, obesity, and health; and the value of having an accessible supply of locally grown food;

(2) Identify any type of barrier, which may include legal, logistical, technical, social, or financial, that prevents or hinders:

(a) Schools and state institutions from purchasing more locally grown agricultural products;

(b) The expansion of market opportunities for locally grown agricultural products;

(c) Schools and other entities from engaging in education campaigns to teach people about the concepts of food production and consumption; the interrelationships between nutrition, food choices, obesity, and health; and the value of having an accessible supply of locally grown food; and

(3) Develop recommendations for:

(a) The maximization of existing public and private resources to accomplish the objectives in subsection 3 of this section;

(b) The development of new or expanded resources deemed necessary to accomplish the objectives in subsection 3 of this section, which may include resources such as training programs, grant programs, or database development; and

(c) The elimination of barriers that hinder the objectives in subsection 3 of this section, which may include changes to school or state institution procurement policies or procedures.

5. The board shall prepare a report containing its findings and recommendations and shall deliver such report to the governor, the general assembly, and to the director of each agency represented on the board by no later than August 31, 2012.

6. In conducting its work, the board may hold public meetings at which it may invite testimony from experts or it may solicit information from any party it deems may have information relevant to its duties under this section.

7. This section shall expire on August 31, 2012.

275.360. REFUND OF FEES, REQUEST FOR. — Any producer or grower may, by the use of forms provided by the director, have the fee paid and all future fees paid or collected from him pursuant to sections 275.300 to 275.370 refunded to him, provided such request for refund is in the office of the director within sixty days following the payment of such fee. Apples **and rice** will be exempt from this provision.

Approved July 7, 2011

HB 354 [HCS HB 354]

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 a qualified plug-in electric drive vehicle from the state's motor vehicle emissions inspection program

AN ACT to repeal section 643.315, RSMo, and to enact in lieu thereof one new section relating to exempting qualified plug-in electric drive vehicles from the motor vehicle emissions inspection program.

SECTION

A. Enacting clause.

643.315. Motor vehicles subject to program, when, evidence of inspection and approval — exceptions — reciprocity with other states — dealer inspection, return of motor vehicle for failing inspection, options, violation.

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

SECTION A. ENACTING CLAUSE. — Section 643.315, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 643.315, to read as follows:

643.315. MOTOR VEHICLES SUBJECT TO PROGRAM, WHEN, EVIDENCE OF INSPECTION AND APPROVAL — EXCEPTIONS — RECIPROCITY WITH OTHER STATES — DEALER INSPECTION, RETURN OF MOTOR VEHICLE FOR FAILING INSPECTION, OPTIONS, VIOLATION. — 1. Except as provided in sections 643.300 to 643.355, all motor vehicles which are domiciled, registered or primarily operated in an area for which the commission has established a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355 shall be inspected and approved prior to sale or transfer; provided that, if such vehicle is inspected and approved prior to sale or transfer, such vehicle shall not be subject to another emissions inspection for ninety days after the date of sale or transfer of such vehicle. In addition, any such vehicle manufactured as an even-numbered model year vehicle shall be inspected and approved under the emissions inspection program established pursuant to sections 643.300 to 643.355 in each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be inspected and approved under the emissions inspection program established pursuant to sections 643.300 to 643.355 in each odd-numbered calendar year. All motor vehicles subject to the inspection requirements of sections 643.300 to 643.355 shall display a valid emissions inspection sticker, and when applicable, a valid emissions inspection certificate shall be presented at the time of registration or registration renewal of such motor vehicle. The department of revenue shall require evidence of the safety and emission inspection and approval required by this section in issuing the motor vehicle annual registration in conformity with the procedure required by sections 307.350 to 307.390 and sections 643.300 to 643.355. The director of revenue may verify that a successful safety and emissions inspection was completed via electronic means.

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

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

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

(3) Model year vehicles manufactured prior to 1996;

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

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

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

(7) Historic motor vehicles registered pursuant to section 301.131;

(8) School buses;

(9) Heavy-duty diesel-powered vehicles with a gross vehicle weight rating in excess of eight thousand five hundred pounds;

(10) New motor vehicles that have not been previously titled and registered, for the four-year period following their model year of manufacture, provided the odometer reading for such motor vehicles are under forty thousand miles at their first required biennial safety inspection conducted under sections 307.350 to 307.390; otherwise such motor vehicles shall be subject to the emissions inspection requirements of subsection 1 of this section during the same period that the biennial safety inspection is conducted; **[**and**]**

(11) Motor vehicles that are driven fewer than twelve thousand miles between biennial safety inspections**; and**

(12) Qualified plug-in electric drive vehicles. For the purposes of this section, "qualified plug-in electric drive vehicle" shall mean a plug-in electric drive vehicle that is made by a manufacturer, has not been modified from original manufacturer specifications, and can operate solely on electric power and is capable of recharging its battery from an on-board generation source and an off-board electricity source.

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

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

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

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

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

(3) If the dealer chooses to sell the vehicle without prior inspection and approval, the purchaser may return the vehicle within ten days of the date of purchase, provided that the vehicle has no more than one thousand additional miles since the time of sale, if the vehicle fails, upon inspection, to meet the emissions standards specified by the commission and the dealer shall have the vehicle inspected and approved without the option for a waiver of the emissions standard and return the vehicle to the purchaser with a valid emissions certificate and sticker within five working days or the purchaser and dealer may enter into any other mutually acceptable agreement. If the dealer chooses to sell the vehicle without prior inspection and approval, the dealer shall disclose conspicuously on the sales contract and bill of sale that the purchaser has the option to return the vehicle within ten days, provided that the vehicle has no more than one thousand additional miles since the time of sale, to have the dealer repair the vehicle and provide an emissions certificate and sticker within five working days if the vehicle fails, upon inspection, to meet the emissions standards established by the commission, or enter into any mutually acceptable agreement with the dealer. A violation of this subdivision shall be an unlawful practice as defined in section 407.020. No emissions inspection shall be required pursuant to sections 643.300 to 643.360 for the sale of any motor vehicle which may be sold without a certificate of inspection and approval, as provided pursuant to subsection 2 of section 307.380.

Approved May 5, 2011

HB 358 [HB 358]

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 Police Retirement System of St. Louis

AN ACT to repeal sections 86.252, 86.255, 86.256, 86.294, and 86.354, RSMo, and to enact in lieu thereof six new sections relating to police retirement.

SECTION

A. Enacting clause.
86.252. Distribution of interest of member, when — distribution periods before January 1, 2003 — distributions on and after January 1, 2003.
86.255. Eligible rollover distribution payable, election to pay directly to plan — definitions — written explanation required by board, when — distribution made, when — prohibition on eligible rollover distributions to certain members, exception.
86.256. Annual benefit not to exceed certain amount — annual additions not to exceed certain amount — incorporation by reference of Internal Revenue Code.
86.294. Contributions to be accepted after January 1, 2002, limitations.
86.295. Death while performing qualified military service, benefit distribution, to whom.
86.354. Benefit vested and nonforfeitable, when — forfeitures, use of.

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

SECTION A. ENACTING CLAUSE. — Sections 86.252, 86.255, 86.256, 86.294, and 86.354, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 86.252, 86.255, 86.256, 86.294, 86.295, and 86.354, to read as follows:

86.252. DISTRIBUTION OF INTEREST OF MEMBER, WHEN — DISTRIBUTION PERIODS BEFORE JANUARY 1, 2003 — DISTRIBUTIONS ON AND AFTER JANUARY 1, 2003. — 1. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, the entire interest of a member shall be distributed or begin to be distributed no later than the member's required beginning date. The general required beginning date of a member's benefit is April first of the calendar year following the calendar year in which the member attains age seventy and one-half years or, if later, in which the member terminates employment as a police officer and actually retires.

2. All distributions required pursuant to this section prior to January 1, 2003, shall be determined and made in accordance with the income tax regulations under Section 401(a)(9) of the Internal Revenue Code in effect prior to January 1, 2003, including the minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2 of the income tax regulations. As of the first distribution year, distributions, if not made in a single sum, may only be made over one of the following periods, or a combination thereof:

(1) The life of the member;

(2) The life of the member and a designated beneficiary;

(3) A period certain not extending beyond the life expectancy of the member; or

(4) A period certain not extending beyond the joint and last survivor expectancy of the member and a designated beneficiary.

3. (1) This subsection shall apply for purposes of determining required minimum distributions for calendar years beginning on and after January 1, 2003, and shall take precedence over any inconsistent provisions of section 86.200 to 86.366. All distributions required under this subsection shall be determined and made in accordance with the United States Treasury regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.

(2) (a) The member's entire interest shall be distributed or begin to be distributed to the member no later than the member's required beginning date.

(b) If the member dies before distributions begin, the member's entire interest shall be distributed or begin to be distributed no later than as follows:

a. If the member's surviving spouse is the member's sole designated beneficiary, distributions to the surviving spouse shall begin by December thirty-first of the calendar year immediately following the calendar year in which the member died, or by December thirty-first of the calendar year in which the member would have attained age seventy and one-half years, if later;

b. If the member's surviving spouse is not the member's sole designated beneficiary, distributions to the designated beneficiary shall begin by December thirty-first of the calendar year immediately following the calendar year in which the member died;

c. If there is no designated beneficiary as of September thirtieth of the calendar year following the calendar year of the member's death, the member's entire interest shall be distributed by December thirty-first of the calendar year containing the fifth anniversary of the member's death;

d. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distribution to the surviving spouse begins, this paragraph, except for subparagraph a. of this paragraph, shall apply as if the surviving spouse were the member. For purposes of this paragraph and subdivision (5) of this subsection, distributions shall be considered to begin on the member's required beginning date, or if subparagraph d. of this paragraph applies, the date distributions are required to begin to the surviving spouse under subparagraph a. of this paragraph. If annuity payments irrevocably commence to the member before the member's required beginning date, or to the member's surviving spouse before the date of distributions are required to begin to the surviving spouse under subparagraph a. of this paragraph, the date of distributions shall be considered to begin the date distributions actually commence.

(c) Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions shall be made in accordance with subdivisions (3), (4), and (5) of this subsection. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions shall be made in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, and the United States Treasury regulations.

(3) (a) If the member's interest is paid in the form of annuity distributions under sections 86.200 to 86.366, payments under the annuity shall satisfy the following requirements:

a. The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;

b. The distribution period shall be over a life or lives, or over a period certain not longer than the period described in subdivision (4) or (5) of this subsection;

c. Once payments have begun over a period certain, the period certain shall not be changed even if the period certain is shorter than the maximum permitted;

d. Payments shall either be nonincreasing or increase only as **[**follows:

(i) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the federal Bureau of Labor Statistics;

(ii) To the extent of the reduction in the amount of the member's payments to provide for a surviving benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in subdivision (4) of this subsection dies or is no longer the member's beneficiary under a qualified domestic relations order with the meaning of Section 414(p) of the Internal Revenue Code of 1986, as amended;

(iii) To provide cash refunds of employee contributions upon the member's death; or

(iv) To pay increased benefits that result from a revision of sections 86.200 to 86.366**]** **permitted under Q&A-14 of Section 1.401(a)(9)-6 of the United States Treasury regulations**.

(b) The amount distributed on or before the member's required beginning date, or if the member dies before distribution begins, the date distributions are required to begin under subparagraph a. or b. of paragraph (b) of subdivision (2) of this subsection, shall be the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if the payment interval ends in the next calendar year. "Payment intervals" means the periods for which payments are received, such as bimonthly, monthly, semiannually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

(c) Any additional benefits accruing to the member in a calendar year after the first distribution calendar year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(4) (a) If the member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary, annuity payments to be made on or after the member's required beginning date to the designated beneficiary after the member's death shall not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the member using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the United States Treasury regulations.

(b) The period certain for an annuity distribution commencing during the member's lifetime shall not exceed the applicable distribution period for the member under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the United States Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the member reaches age seventy, the applicable distribution period for the member shall be the distribution period for age seventy under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the United States Treasury regulations plus the excess of seventy over the age of the member as of the member's birthday in the year that contained the annuity starting date.

(5) (a) If the member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest shall be distributed, beginning no later than the time described in subparagraph a. or b. of paragraph (b) of subdivision (2) of this subsection, over the life of the designated beneficiary or over a period certain not exceeding:

a. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or

b. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(b) If the member dies before the date distributions begin and there is no designated beneficiary as of September thirtieth of the calendar year following the calendar year of the member's death, distribution of the member's entire interest shall be completed by December thirty-first of the calendar year containing the fifth anniversary of the member's death.

(c) If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subdivision shall apply as if the surviving spouse were the member; except that, the time by which distributions shall begin shall be determined without regard to subparagraph a. of paragraph (b) of subdivision (2) of this subsection.

(6) As used in this subsection, the following terms mean:

(a) "Designated beneficiary", the surviving spouse or the individual who is designated as the beneficiary under subdivision (4) of section 86.200 or any individual who is entitled to receive death benefits under section 86.283 or 86.287 and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, and Section 1.401(a)(9)-1, Q&A-4 of the United States Treasury regulations;

(b) "Distribution calendar year", a calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin under paragraph (b) of subdivision (2) of this subsection;

(c) "Life expectancy", life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the United States Treasury regulations;

(d) "Required beginning date", April first of the calendar year following the calendar year in which the member attains age seventy and one-half years or, if later, in which the member terminates employment as a police officer and actually retires.

(7) Notwithstanding any provision in this subsection to the contrary:

(a) A distribution for calendar years 2003, 2004, and 2005 shall not fail to satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, merely because the payments do not satisfy Section 1.401(a)(9)-1, Q&A-1 to Q&A-16 of the United States Treasury regulations, provided the payments satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended; and

(b) **[**In the case of an annuity distribution option provided under the terms of sections 86.200 to 86.366 shall not fail to satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, merely because the annuity payments do not satisfy the requirements of Section 1.401(a)(9)-1, Q&A-1 to Q&A-15 of the United States Treasury regulations, provided the distribution option satisfies Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, based on a reasonable and good faith interpretation of the provisions of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.**] Under Section 1.401(a)(9)-1, Q&A-2(d) of the United States Treasury regulations, the plan shall be treated as having complied with Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all years to which Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, applies to the plan if the plan complies with a reasonable and good faith interpretation of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.**

86.255. ELIGIBLE ROLLOVER DISTRIBUTION PAYABLE, ELECTION TO PAY DIRECTLY TO PLAN — DEFINITIONS — WRITTEN EXPLANATION REQUIRED BY BOARD, WHEN — DISTRIBUTION MADE, WHEN — PROHIBITION ON ELIGIBLE ROLLOVER DISTRIBUTIONS TO CERTAIN MEMBERS, EXCEPTION. — 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, if an eligible rollover distribution becomes payable to a distributee, the distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any of the eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

2. For purposes of this section, the following terms mean:

(1) "Direct rollover", a payment by the board of trustees from the fund to the eligible retirement plan specified by the distributee;

(2) "Distributee", a member, a surviving spouse **[**or**] ,** a spouse**, or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code of 1986, as amended, or, effective for distributions made on or after January 1, 2010, a nonspouse beneficiary**;

(3) "Eligible retirement plan", an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of

the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution or, effective for eligible rollover distributions made on or after January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, and shall include, for eligible rollover distributions made on or after January 1, 2002, a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code**. Effective for distributions made on or after January 1, 2008, eligible retirement plan shall also include a Roth IRA as described in Section 408 of the Internal Revenue Code of 1986, as amended, provided that for distributions made on or after January 1, 2010, to a nonspouse beneficiary, an eligible retirement plan shall include only an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, as amended, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, as amended, or a Roth IRA described in Section 408A of the Internal Revenue Code of 1986, as amended, that is an inherited individual retirement account or annuity under Section 408 of the Internal Revenue Code of 1986, as amended**;

(4) "Eligible rollover distribution", any distribution of all or any portion of a member's benefit, other than:

(a) A distribution that is one of a series of substantially equal periodic payments, made not less frequently than annually, for the life or life expectancy of the distributee or for the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(b) The portion of a distribution that is required under Section 401(a)(9) of the Internal Revenue Code; or

(c) Effective for distributions made on or after January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, **for distributions made before January 1, 2007,** such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including to separately account for the portion of such distribution which is includable in gross income and the portion that is not so includable**; for distributions made on or after January 1, 2007, such portion may also be transferred to an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, or to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code of 1986, as amended, that agrees to separately account for amounts so transferred, including to separately account for the portion of such distribution which is includable in gross income and the portion that is not so includable; and for distributions made on or after January 1, 2008, such portion may also be transferred to a Roth IRA described in Section 408A of the Internal Revenue Code of 1986, as amended**.

3. The board of trustees shall, at least thirty days, but not more than ninety days, before making an eligible rollover distribution, provide a written explanation to the distributee in accordance with the requirements of Section 402(f) of the Internal Revenue Code.

4. If the eligible rollover distribution is not subject to Sections 401(a) and 417 of the Internal Revenue Code, such eligible rollover distribution may be made less than thirty days after the distributee has received the notice described in subsection 3 of this section, provided that:

(1) The board of trustees clearly informs the distributee of the distributee's right to consider whether to elect a direct rollover, and if applicable, a particular distribution option, for at least thirty days after the distributee receives the notice; and

(2) The distributee, after receiving the notice, affirmatively elects a distribution.

5. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, in no event shall the trustees pay an eligible rollover distribution in the amount of five thousand dollars or less to a member or retired member who has not attained age sixty-two unless such member or retired member consents in writing either to receive such distribution in cash or to have such distribution directly rolled over in accordance with the provisions of this section.

86.256. ANNUAL BENEFIT NOT TO EXCEED CERTAIN AMOUNT — ANNUAL ADDITIONS NOT TO EXCEED CERTAIN AMOUNT — INCORPORATION BY REFERENCE OF INTERNAL REVENUE CODE. — 1. In no event shall a member's annual benefit paid under the plan established pursuant to sections 86.200 to 86.366 exceed the amount specified in Section 415(b)(1)(A) of the Internal Revenue Code, as adjusted for any applicable increases in the cost of living, as in effect on the last day of the plan year, including any increases after the member's termination of employment.

2. Effective for limitation years beginning after December 31, 2001, in no event shall the annual additions to the plan established pursuant to sections 86.200 to 86.366, on behalf of the member, including the member's own mandatory contributions, exceed the **[**lesser of:

(1) One hundred percent of the member's compensation, as defined for purposes of Section 415(c)(3) of the Internal Revenue Code, for the limitation year; or

(2) Forty thousand dollars, as adjusted for increases in the cost of living under Section 415(d) of the Internal Revenue Code.

3. Effective for limitation years beginning prior to January 1, 2000, in no event shall the combined plan limitation of Section 415(e) of the Internal Revenue Code be exceeded; provided that, if necessary to avoid exceeding such limitation, the member's annual benefit under the plan established pursuant to sections 86.200 to 86.366 shall be reduced to the extent necessary to satisfy such limitations**] amount specified in Section 415(c) of the Internal Revenue Code of 1986, as amended, as adjusted for any applicable increases in the cost of living under Section 415(d) of the Internal Revenue Code of 1986, as amended, as in effect on the last day of the plan year**.

[4.**] 3.** For purposes of this section, Section 415 of the Internal Revenue Code, including the special rules under Section 415(b) applicable to governmental plans and qualified participants employed by a police or fire department, is incorporated in this section by reference.

86.294. CONTRIBUTIONS TO BE ACCEPTED AFTER JANUARY 1, 2002, LIMITATIONS. — 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, and subject to the provisions of subsections 2**[**, 3, and 4**] and 3** of this section, effective January 1, 2002, the plan shall accept a member's rollover contribution or direct rollover of an eligible rollover distribution made on or after January 1, 2002, from a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code, or an annuity contract described in Section 403(b) of the Internal Revenue Code, or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state**, and that would otherwise be includable in gross income**. The plan will also accept a member's rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includable in gross income. **The plan will accept a member's direct rollover of an eligible rollover distribution made on or after October 1, 2011, from a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code of 1986, as amended, or an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended,**

that includes after-tax employee contributions, other than Roth contributions described in Section 402A of the Internal Revenue Code of 1986, as amended, that are not includable in gross income and shall separately account for such after-tax amounts.

2. **Except to the extent specifically permitted under procedures established by the board of trustees,** the amount of such rollover contribution or direct rollover of an eligible rollover distribution shall not exceed the amount required to repay the member's accumulated contributions plus the applicable members' interest thereon from the date of withdrawal to the date of repayment in order to receive credit for such prior service in accordance with section 86.210, to the extent that Section 415 of the Internal Revenue Code does not apply to such repayment by reason of subsection (k)(3) thereof, or to purchase permissive service credit, as defined in Section 415(n)(3)(A) of the Internal Revenue Code, for the member under the plan in accordance with the provisions of section 105.691.

3. Acceptance of any rollover contribution or direct rollover of **an** eligible rollover distribution under this section shall be subject to the approval of the board of trustees and shall be made in accordance with procedures established by the board of trustees.

[4. In no event shall the plan accept any rollover contribution or direct rollover distribution to the extent that such contribution or distribution consists of after-tax employee contributions which are not includable in gross income.**]**

86.295. DEATH WHILE PERFORMING QUALIFIED MILITARY SERVICE, BENEFIT DISTRIBUTION, TO WHOM. — Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, if a member dies on or after January 1, 2007, while performing qualified military service, as defined in Section 414(u)(5) of the Internal Revenue Code of 1986, as amended, the member's surviving spouse and other dependents shall be entitled to any benefits, other than benefit increases relating to the period of qualified military service, and the rights and features associated with those benefits which would have been provided under sections 86.280 and 86.290 if the member had returned to active service as a police officer and died while in active service.

86.354. BENEFIT VESTED AND NONFORFEITABLE, WHEN — FORFEITURES, USE OF. — A member's benefit shall be one hundred percent vested and nonforfeitable upon the **first of the following to occur:**

(1) The member's attainment of **age fifty-five, the** normal retirement age **[**of the earlier of age fifty-five**] ;** or

(2) The member's completion of twenty years of creditable service **regardless of age;** or**[**, if earlier, and to the extent funded, upon**]**

(3) The termination of the plan established pursuant to sections 86.200 to 86.366**, to the extent the plan is funded**.

Forfeitures of any nature under such plan shall not be used to increase the benefits of any member, but shall be used to reduce the city's contributions pursuant to section 86.243.

Approved May 2, 2011

HB 388 [SCS HB 388]

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 provisions requiring the Department of Health and Senior Services to provide information to physicians to give to breast implantation patients regarding advantages, disadvantages, and risks

AN ACT to repeal section 376.1250, RSMo, and to enact in lieu thereof one new section relating to patient information provided in advance of certain surgical procedures.

SECTION
A. Enacting clause.
376.1250. Cancer screening, health insurance coverage required, when, types.

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

SECTION A. ENACTING CLAUSE. — Section 376.1250, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.1250, to read as follows:

376.1250. CANCER SCREENING, HEALTH INSURANCE COVERAGE REQUIRED, WHEN, TYPES. — 1. All individual and group health insurance policies providing coverage on an expense-incurred basis, individual and group service or indemnity type contracts issued by a nonprofit corporation, individual and group service contracts issued by a health maintenance organization, all self-insured group arrangements to the extent not preempted by federal law and all managed health care delivery entities of any type or description, that are delivered, issued for delivery, continued or renewed on or after August 28, 1999, and providing coverage to any resident of this state shall provide benefits or coverage for:

(1) A pelvic examination and Pap smear for any nonsymptomatic woman covered under such policy or contract, in accordance with the current American Cancer Society guidelines;

(2) A prostate examination and laboratory tests for cancer for any nonsymptomatic man covered under such policy or contract, in accordance with the current American Cancer Society guidelines; and

(3) A colorectal cancer examination and laboratory tests for cancer for any nonsymptomatic person covered under such policy or contract, in accordance with the current American Cancer Society guidelines.

2. Coverage and benefits related to the examinations and tests as required by this section shall be at least as favorable and subject to the same dollar limits, deductible, and co-payments as other covered benefits or services.

3. Nothing in this act shall apply to accident-only, hospital indemnity, Medicare supplement, long-term care, or other limited benefit health insurance policies.

4. The provisions of this section shall not apply to short-term major medical policies of six months or less duration.

5. The attending physician shall **[**make available to any patient**] advise the patient of** the advantages, disadvantages, and risks, including cancer, associated with breast implantation prior to such operation **[**as provided by the department of health and senior services**]**.

6. **[**The department of health and senior services shall:

(1) Make available a standardized written summary that would be clear to a prudent lay person that:

(a) Contains general information on breast implantation; and

(b) Discloses potential dangers and side effects of a breast implantation operation;

(2) Update the standardized written summary as deemed necessary by the department of health and senior services; and

(3) By January 1, 2000, the department shall make available the standardized written summary to all hospitals, clinics, and physicians' offices that perform breast implantation.

7. The attending physician satisfies the requirements of subsection 5 of this section if:

(1) The physician provides the breast implantation patient with the standardized written summary described in subsection 2 of this section;

(2) The patient receives the standardized written summary at least five days before the breast implantation operation; and

(3) The patient signs a statement, made available by the department of health and senior services, acknowledging the patient's receipt of the standardized written summary.

8. Failure of the department of health and senior services to make the summary available, as described in subsection 6 of this section, shall be an affirmative defense in an action alleging a violation of subsection 5 of this section for the attending physician.

9.**]** Nothing in this section shall alter, impair or otherwise affect claims, rights or remedies available pursuant to law.

Approved June 30, 2011

HB 407 [HCS HB 407]

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 a person from preparing or issuing a certificate of insurance form unless it has been filed with the Department of Insurance, Financial Institutions and Professional Registration

AN ACT to amend chapter 379, RSMo, by adding thereto one new section relating to certificates of insurance for property and casualty insurance coverage.

SECTION

A. Enacting clause.
379.108. Form of certificate to be filed with director — definitions — contents — standard forms — false or misleading information prohibited — applicability — fee — violations, effect of — rulemaking authority.

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

SECTION A. ENACTING CLAUSE. — Chapter 379, RSMo, is amended by adding thereto one new section, to be known as section 379.108, to read as follows:

379.108. FORM OF CERTIFICATE TO BE FILED WITH DIRECTOR — DEFINITIONS — CONTENTS — STANDARD FORMS — FALSE OR MISLEADING INFORMATION PROHIBITED — APPLICABILITY — FEE — VIOLATIONS, EFFECT OF — RULEMAKING AUTHORITY. — 1. As used in this section, the following terms shall mean:

(1) "Certificate of insurance", any document or instrument, no matter how titled or described, which is prepared or issued by an insurer or insurance producer as a statement of property or casualty insurance coverage. Certificate of insurance shall not include a policy of insurance, insurance binder, or evidence of commercial property insurance required by a lender in a lending transaction involving a mortgage, lien, deed of trust, or other security interest in or on any real or personal property as security for a loan;

(2) "Certificate holder", any person, other than a policyholder, that requests, obtains, or possesses a certificate of insurance;

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

(4) "Insurance producer", the same meaning as such term is defined in section 375.012;

(5) "Insurer", any insurance company or mutual formed or regulated under the provisions of chapter 379 or 380, and any other person engaged in the business of making insurance or surety contracts, including self-insurers;

(6) "Person", any individual, partnership, corporation, association, or other legal entity, including any government or governmental subdivision or agency;

(7) "Policyholder", a person who has contracted with a property or casualty insurer for insurance coverage.

2. No person shall prepare, issue, or request the issuance of a certificate of insurance unless the form has been filed with the director. No person shall alter or modify a filed certificate of insurance form.

3. Each certificate of insurance shall contain the following or similar statement:

"This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage, terms, exclusions and conditions afforded by the policies referenced herein.".

4. Standard certificate of insurance forms promulgated by the Association for Cooperative Operations Research and Development or the Insurance Services Office are deemed in compliance when filed with the director and may be adopted and used by any of their respective members.

5. No person, wherever located, shall demand or request the issuance of a certificate of insurance from an insurer, insurance producer, or policyholder that contains any false or misleading information concerning the policy of insurance to which the certificate makes reference.

6. No person, wherever located, shall knowingly prepare or issue a certificate of insurance that contains any false or misleading information or that purports to affirmatively or negatively alter, amend, or extend the coverage or rights provided by the policy of insurance to which the certificate makes reference.

7. No person shall prepare, issue, or request, either in addition to or in lieu of a certificate of insurance, an opinion letter or other document or correspondence that is inconsistent with this section; except that, an insurer or insurance producer may prepare or issue an addendum to a certificate that lists the forms and endorsements by a policy of insurance and otherwise complies with the requirements of this section.

8. The provisions of this section shall apply to all certificate holders, policyholders, insurers, insurance producers, and certificate of insurance forms issued as a statement of insurance coverage on property operations or risks located in this state, regardless of where the certificate holder, policyholder, or insurance producer is located.

9. A certificate of insurance is not a policy of insurance and does not affirmatively or negatively amend, extend, or alter coverage afforded by the policy to which the certificate of insurance makes reference. A certificate of insurance shall not confer to a certificate holder new or additional rights beyond what the referenced policy of insurance expressly provides.

10. No certificate of insurance shall contain references or opinions on the effect of any contracts, including construction or service contracts, other than the referenced contract of insurance. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which a certificate of insurance may be issued or may pertain, the insurance afforded by the referenced policy of insurance is subject to all the terms, exclusions, and conditions of the policy itself.

11. A certificate holder shall only have a legal right to notice of cancellation, nonrenewal, or any material change, or any similar notice concerning a policy of insurance if the person is named within the policy or any endorsement or rider and the policy or endorsement or rider requires notice to be provided. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance and shall not be created or altered by a certificate of insurance.

12. An insurance producer may charge a reasonable service fee for issuing a certificate to a policyholder or certificate holder. Such fee shall be considered a permissible incidental fee under section 375.052.

13. Any certificate of insurance or any other document or correspondence prepared, issued, or requested in violation of this section shall be null and void and of no force and effect.

14. If the director determines that a person has violated this section, the director may issue such administrative orders as authorized under section 374.046. A violation of this section is a level two violation under section 374.049.

15. The director shall have the power to examine and investigate the activities of any person that the director reasonably believes has been or is engaged in an act or practice prohibited by this section. The director shall have the power to enforce the provisions of this section and impose any authorized penalty or remedy against any person who violates this section.

16. The director 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, 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2011, shall be invalid and void.

17. Any lender requesting use of an evidence of commercial property insurance exempted under subdivision (1) of subsection 1 of this section which has not been approved for use by the insurer issuing the insurance policy and the insurance producer has advised the lender in writing that the insurance provider has not been authorized to use the requested evidence of commercial insurance shall have no cause of action against an insurance producer arising from the use of such form, except for acts of intentional misrepresentation or fraud.

Approved June 30, 2011

HB 412 [SCS HCS HB 412]

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 pharmacies

AN ACT to repeal sections 208.798, 338.010, 338.055, 338.140, 338.150, 338.210, 338.220, 338.240, and 338.330, RSMo, and to enact in lieu thereof nine new sections relating to pharmacy, with an emergency clause for a certain section.

SECTION

A. Enacting clause.
208.798. Termination date.
338.010. Practice of pharmacy defined — auxiliary personnel — written protocol required, when — nonprescription drugs — rulemaking authority — therapeutic plan requirements — veterinarian defined.
338.055. Denial, revocation or suspension of license, grounds for — expedited procedure — additional discipline authorized, when.
338.140. Board of pharmacy, powers, duties — advisory committee, appointment, duties — letters of reprimand, censure or warning.
338.150. Inspections by authorized representatives of board, where.
338.210. Pharmacy defined — practice of pharmacy to be conducted at pharmacy location — rulemaking authority.

338.220. Operation of pharmacy without permit or license unlawful — application for permit, classifications, fee — duration of permit.
338.240. Evidence required for issuance of permit — veterinary permit pharmacy, designation of supervising registered pharmacist, when.
338.330. Definitions.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 208.798, 338.010, 338.055, 338.140, 338.150, 338.210, 338.220, 338.240, and 338.330, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 208.798, 338.010, 338.055, 338.140, 338.150, 338.210, 338.220, 338.240, and 338.330, to read as follows:

208.798. TERMINATION DATE. — **[**1. The provisions of sections 208.550 to 208.568 shall terminate following notice to the revisor of statutes by the Missouri RX plan advisory commission that the Medicare Prescription Drug, Improvement and Modernization Act of 2003 has been fully implemented.

2. Pursuant to section 23.253 of the Missouri sunset act, the provisions of the new program authorized under sections 208.780 to 208.798 shall automatically sunset August 28, 2011, unless reauthorized by an act of the general assembly**] The provisions of sections 208.780 to 208.798 shall terminate on August 28, 2014**.

338.010. PRACTICE OF PHARMACY DEFINED — AUXILIARY PERSONNEL — WRITTEN PROTOCOL REQUIRED, WHEN — NONPRESCRIPTION DRUGS — RULEMAKING AUTHORITY — THERAPEUTIC PLAN REQUIREMENTS — VETERINARIAN DEFINED. — 1. The "practice of pharmacy" means the interpretation, implementation, and evaluation of medical prescription orders, including **any legend drugs under 21 U.S.C. Section 353;** receipt, transmission, or handling of such orders or facilitating the dispensing of such orders; the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by the prescription order so long as the prescription order is specific to each patient for care by a pharmacist; the compounding, dispensing, labeling, and administration of drugs and devices pursuant to medical prescription orders and administration of viral influenza, pneumonia, shingles and meningitis vaccines by written protocol authorized by a physician for persons twelve years of age or older as authorized by rule or the administration of pneumonia, shingles, and meningitis vaccines by written protocol authorized by a physician for a specific patient as authorized by rule; the participation in drug selection according to state law and participation in drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records thereof; consultation with patients and other health care practitioners**, and veterinarians and their clients about legend drugs,** about the safe and effective use of drugs and devices; and the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management and control of a pharmacy. No person shall engage in the practice of pharmacy unless he is licensed under the provisions of this chapter. This chapter shall not be construed to prohibit the use of auxiliary personnel under the direct supervision of a pharmacist from assisting the pharmacist in any of his **or her** duties. This assistance in no way is intended to relieve the pharmacist from his **or her** responsibilities for compliance with this chapter and he **or she** will be responsible for the actions of the auxiliary personnel acting in his **or her** assistance. This chapter shall also not be construed to prohibit or interfere with any legally registered practitioner of medicine, dentistry, **or** podiatry, or veterinary medicine **only for use in animals**, or the practice of optometry in accordance with and as provided in sections 195.070 and 336.220 in the compounding**, administering, prescribing,** or dispensing of his **or her** own prescriptions.

2. Any pharmacist who accepts a prescription order for a medication therapeutic plan shall have a written protocol from the physician who refers the patient for medication therapy services. The written protocol and the prescription order for a medication therapeutic plan shall come from the physician only, and shall not come from a nurse engaged in a collaborative practice arrangement under section 334.104, or from a physician assistant engaged in a supervision agreement under section 334.735.

3. Nothing in this section shall be construed as to prevent any person, firm or corporation from owning a pharmacy regulated by sections 338.210 to 338.315, provided that a licensed pharmacist is in charge of such pharmacy.

4. Nothing in this section shall be construed to apply to or interfere with the sale of nonprescription drugs and the ordinary household remedies and such drugs or medicines as are normally sold by those engaged in the sale of general merchandise.

5. No health carrier as defined in chapter 376 shall require any physician with which they contract to enter into a written protocol with a pharmacist for medication therapeutic services.

6. This section shall not be construed to allow a pharmacist to diagnose or independently prescribe pharmaceuticals.

7. The state board of registration for the healing arts, under section 334.125, and the state board of pharmacy, under section 338.140, shall jointly promulgate rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. Such rules shall require protocols to include provisions allowing for timely communication between the pharmacist and the referring physician, and any other patient protection provisions deemed appropriate by both boards. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither board shall separately promulgate rules regulating the use of protocols for prescription orders for medication therapy services and administration of viral influenza vaccines. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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 state board of pharmacy may grant a certificate of medication therapeutic plan authority to a licensed pharmacist who submits proof of successful completion of a board-approved course of academic clinical study beyond a bachelor of science in pharmacy, including but not limited to clinical assessment skills, from a nationally accredited college or university, or a certification of equivalence issued by a nationally recognized professional organization and approved by the board of pharmacy.

9. Any pharmacist who has received a certificate of medication therapeutic plan authority may engage in the designing, initiating, implementing, and monitoring of a medication therapeutic plan as defined by a prescription order from a physician that is specific to each patient for care by a pharmacist.

10. Nothing in this section shall be construed to allow a pharmacist to make a therapeutic substitution of a pharmaceutical prescribed by a physician unless authorized by the written protocol or the physician's prescription order.

338.055. DENIAL, REVOCATION OR SUSPENSION OF LICENSE, GROUNDS FOR — EXPEDITED PROCEDURE — ADDITIONAL DISCIPLINE AUTHORIZED, WHEN. — 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section **or if the designated pharmacist-in-charge, manager-in-charge, or any officer, owner, manager, or controlling shareholder of the applicant has committed any act or practice 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.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 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 of any controlled substance, as defined in chapter 195, 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 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) Incompetence, 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 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) Denial of licensure to an applicant or disciplinary action against an applicant or 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 whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, surrender of the license upon grounds for which denial or discipline is authorized in this state;

(9) A person is finally adjudged incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(16) The intentional act of substituting or otherwise changing the content, formula or brand of any drug prescribed by written or oral prescription without prior written or oral approval from the prescriber for the respective change in each prescription; provided, however, that nothing contained herein shall prohibit a pharmacist from substituting or changing the brand of any drug as provided under section 338.056, and any such substituting or changing of the brand of any

drug as provided for in section 338.056 shall not be deemed unprofessional or dishonorable conduct unless a violation of section 338.056 occurs;

(17) Personal use or consumption of any controlled substance unless it is prescribed, dispensed, or administered by a health care provider who is authorized by law to do so.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. 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. The board may impose additional discipline on a licensee, registrant, or permittee found to have violated any disciplinary terms previously imposed under this section or by agreement. The additional discipline may include, singly or in combination, censure, placing the licensee, registrant, or permittee named in the complaint on additional probation on such terms and conditions as the board deems appropriate, which additional probation shall not exceed five years, or suspension for a period not to exceed three years, or revocation of the license, certificate, or permit.

4. If the board concludes that a licensee or registrant 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 licensee's or registrant's license. Within fifteen days after service of the complaint on the licensee or registrant, the administrative hearing commission shall conduct a preliminary hearing to determine whether the alleged activities of the licensee or registrant appear to constitute a clear and present danger to the public health and safety which justify that the licensee's or registrant's license or registration be immediately restricted or suspended. The burden of proving that the actions of a licensee or registrant constitute a clear and present danger to the public health and safety shall be upon the state board of pharmacy. 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.

5. If the administrative hearing commission grants temporary authority to the board to restrict or suspend the licensee's or registrant's license, such temporary authority of the board shall become final authority if there is no request by the licensee or registrant for a full hearing within thirty days of the preliminary hearing. The administrative hearing commission shall, if requested by the licensee or registrant named in the complaint, set a date to hold a full hearing under the provisions of chapter 621 regarding the activities alleged in the initial complaint filed by the board.

6. If the administrative hearing commission dismisses the action filed by the board pursuant to subsection 4 of this section, such dismissal shall not bar the board from initiating a subsequent action on the same grounds.

338.140. BOARD OF PHARMACY, POWERS, DUTIES — ADVISORY COMMITTEE, APPOINTMENT, DUTIES — LETTERS OF REPRIMAND, CENSURE OR WARNING. — 1. The board of pharmacy shall have a common seal, and shall have power to adopt such rules and bylaws not inconsistent with law as may be necessary for the regulation of its proceedings and for the discharge of the duties imposed pursuant to sections 338.010 to 338.198, and shall have power to employ an attorney to conduct prosecutions or to assist in the conduct of prosecutions pursuant to sections 338.010 to 338.198.

2. The board shall keep a record of its proceedings.

3. The board of pharmacy shall make annually to the governor and, upon written request, to persons licensed pursuant to the provisions of this chapter a written report of its proceedings.

4. The board of pharmacy shall appoint an advisory committee composed of **[**five**] six** members, one of whom shall be a representative of pharmacy but who shall not be a member of the pharmacy board, three of whom shall be representatives of wholesale drug distributors as defined in section 338.330, **[**and**]** one of whom shall be a representative of drug manufacturers**, and one of whom shall be a licensed veterinarian recommended to the board of pharmacy by the board of veterinary medicine**. The committee shall review and make recommendations to the board on the merit of all rules and regulations dealing with pharmacy distributors, wholesale drug distributors **[**and**] ,** drug manufacturers**, and veterinary legend drugs** which are proposed by the board.

5. A majority of the board shall constitute a quorum for the transaction of business.

6. Notwithstanding any other provisions of law to the contrary, the board may issue letters of reprimand, censure or warning to any holder of a license or registration required pursuant to this chapter for any violations that could result in disciplinary action as defined in section 338.055.

338.150. INSPECTIONS BY AUTHORIZED REPRESENTATIVES OF BOARD, WHERE. — Any person authorized by the board of pharmacy is hereby given the right of entry and inspection upon all open premises purporting or appearing to be drug or chemical stores, apothecary shops, pharmacies or places of business for exposing for sale, or the dispensing or selling of drugs, pharmaceuticals, medicines, chemicals or poisons or for the compounding of physicians' **or veterinarians'** prescriptions.

338.210. PHARMACY DEFINED — PRACTICE OF PHARMACY TO BE CONDUCTED AT PHARMACY LOCATION — RULEMAKING AUTHORITY. — 1. Pharmacy refers to any location where the practice of pharmacy occurs or such activities are offered or provided by a pharmacist or another acting under the supervision and authority of a pharmacist, including every premises or other place:

(1) Where the practice of pharmacy is offered or conducted;

(2) Where drugs, chemicals, medicines, **any legend drugs under 21 U.S.C. Section 353,** prescriptions, or poisons are compounded, prepared, dispensed or sold or offered for sale at retail;

(3) Where the words "pharmacist", "apothecary", "drugstore", "drugs", and any other symbols, words or phrases of similar meaning or understanding are used in any form to advertise retail products or services;

(4) Where patient records or other information is maintained for the purpose of engaging or offering to engage in the practice of pharmacy or to comply with any relevant laws regulating the acquisition, possession, handling, transfer, sale or destruction of drugs, chemicals, medicines, prescriptions or poisons.

2. All activity or conduct involving the practice of pharmacy as it relates to an identifiable prescription or drug order shall occur at the pharmacy location where such identifiable prescription or drug order is first presented by the patient or the patient's authorized agent for preparation or dispensing, unless otherwise expressly authorized by the board.

3. The requirements set forth in subsection 2 of this section shall not be construed to bar the complete transfer of an identifiable prescription or drug order pursuant to a verbal request by or the written consent of the patient or the patient's authorized agent.

4. The board is hereby authorized to enact rules waiving the requirements of subsection 2 of this section and establishing such terms and conditions as it deems necessary, whereby any activities related to the preparation, dispensing or recording of an identifiable prescription or drug order may be shared between separately licensed facilities.

5. If a violation of this chapter or other relevant law occurs in connection with or adjunct to the preparation or dispensing of a prescription or drug order, any permit holder or pharmacist-in-charge at any facility participating in the preparation, dispensing, or distribution of a prescription or drug order may be deemed liable for such violation.

6. Nothing in this section shall be construed to supersede the provisions of section 197.100.

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. A permit shall not be required for an individual licensed pharmacist to perform nondispensing activities outside of a pharmacy, as provided by the rules of the board. A permit shall not be required for an individual licensed pharmacist to administer drugs, vaccines, and biologicals by protocol, as permitted by law, outside of a 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**, administering, prescribing,** or dispensing of their own prescriptions**, medicine, drug, or pharmaceutical product to be used for animals**.

5. **[**Notwithstanding any other law to the contrary**] Except for any legend drugs under 21 U.S.C. Section 353**, the provisions of this section shall not apply to the sale, dispensing, or filling of a pharmaceutical product or drug used for treating animals.

338.240. EVIDENCE REQUIRED FOR ISSUANCE OF PERMIT — VETERINARY PERMIT PHARMACY, DESIGNATION OF SUPERVISING REGISTERED PHARMACIST, WHEN. — 1. Upon evidence satisfactory to the said Missouri board of pharmacy:

(1) That the pharmacy for which a permit, or renewal thereof, is sought, will be conducted in full compliance with sections 338.210 to 338.300, with existing laws, and with the rules and regulations as established hereunder by said board;

(2) That the equipment and facilities of such pharmacy are such that it can be operated in a manner not to endanger the public health or safety;

(3) That such pharmacy is equipped with proper pharmaceutical and sanitary appliances and kept in a clean, sanitary and orderly manner;

(4) That the management of said pharmacy is under the supervision of either a registered pharmacist, or an owner or employee of the owner, who has at his **or her** place of business a registered pharmacist employed for the purpose of compounding physician's **or veterinarian's** prescriptions in the event any such prescriptions are compounded or sold;

(5) That said pharmacy is operated in compliance with the rules and regulations legally prescribed with respect thereto by the Missouri board of pharmacy, a permit or renewal thereof shall be issued to such persons as the said board of pharmacy shall deem qualified to conduct such pharmacy.

2. In lieu of a registered pharmacist as required by subdivision (4) of subsection 1 of this section, a pharmacy permit holder that only holds a class L veterinary permit and no other pharmacy permit, may designate a supervising registered pharmacist who shall be responsible for reviewing the activities and records of the class L pharmacy permit holder as established by the board by rule. The supervising registered pharmacist shall not be required to be physically present on site during the business operations of a class L pharmacy permit holder identified in subdivision (5) of subsection 1 of this section when noncontrolled legend drugs under 21 U.S.C. Section 353 are being dispensed for use in animals, but shall be specifically present on site when any noncontrolled drugs for use in animals are being compounded.

338.330. DEFINITIONS. — As used in sections 338.300 to 338.370, the following terms mean:

(1) **"Legend drug", any drug or biological product;**

(a) Subject to section 503(b) of the Federal Food, Drug and Cosmetic Act, including finished dosage forms and active ingredients subject to section 503(b); or

(b) Required under federal law to be labeled with one of the following statements prior to being dispensed or delivered:

a. "Caution: Federal law prohibits dispensing without prescription";

b. "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian";

c. "Rx Only"; or

(c) Required by an applicable federal or state law or regulation to be dispensed by prescription only or that is restricted to use by practitioners only; and

(d) The term "drug", "prescription drug", or "legend drug" shall not include:

a. An investigational new drug, as defined by 21 CFR 312.3(b), that is being utilized for the purposes of conducting a clinical investigation of that drug or product that is governed by, and being conducted pursuant to, 21 CFR 312, et. seq.;

b. Any drug product being utilized for the purposes of conducting a clinical investigation that is governed by, and being conducted pursuant to, 21 CFR 312, et. seq.; or

c. Any drug product being utilized for the purposes of conducting a clinical investigation that is governed or approved by an institutional review board subject to 21 CFR Part 56 or 45 CFR Part 46;

(2) "Out-of-state wholesale drug distributor", a wholesale drug distributor with no physical facilities located in the state;

[(2)**] (3)** "Pharmacy distributor", any licensed pharmacy, as defined in section 338.210, engaged in the delivery or distribution of legend drugs to any other licensed pharmacy where such delivery or distribution constitutes at least five percent of the total gross sales of such pharmacy;

[(3)**] (4)** "Wholesale drug distributor", anyone engaged in the delivery or distribution of legend drugs from any location and who is involved in the actual, constructive or attempted

transfer of a drug or drug-related device in this state, other than to the ultimate consumer. This shall include, but not be limited to, drug wholesalers, repackagers and manufacturers which are engaged in the delivery or distribution of drugs in this state, with facilities located in this state or in any other state or jurisdiction. A wholesale drug distributor shall not include any common carrier or individual hired solely to transport legend drugs. Any locations where drugs are delivered on a consignment basis, as defined by the board, shall be exempt from licensure as a drug distributor, and those standards of practice required of a drug distributor but shall be open for inspection by board of pharmacy representatives as provided for in section 338.360.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the continuance of clinical trials in this state, the repeal and reenactment of section 338.330 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 338.330 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 10, 2011

HB 423 [HB 423]

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 Missouri to adopt the provisions of the Health Care Compact to improve health care policy by returning the authority to regulate health care to the state legislatures

AN ACT to amend chapter 191, RSMo, by adding thereto one new section relating to the health care compact.

SECTION
A. Enacting clause.
191.025. Health care compact.

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

SECTION A. ENACTING CLAUSE. — Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.025, to read as follows:

191.025. HEALTH CARE COMPACT. — The Health Care Compact is enacted into law and entered into by the state as a party, and is of full force and effect between the state and any other states joining therein in accordance with the terms of the Compact, which such Compact is as follows:

SECTION 1. — Definitions. As used in this Compact, unless the context clearly indicates otherwise:

"Member State" shall refer to a state that is signatory to this Compact and has adopted it under the laws of that state.

"Effective date" shall refer to the date upon which this Compact shall become effective for purposes of the operation of state and federal law in a Member State, which shall be the later of:

(a) the date upon which this Compact shall be adopted under the laws of the Member State, and;

(b) the date upon which this Compact receives the consent of Congress pursuant to Article I, Section 10, of the United States Constitution, after at least two Member States adopt this Compact.

"Health Care" means care, services, supplies, or plans related to the health of an individual and includes but is not limited to:

(a) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition or functional status of an individual or that affects the structure or function of the body; and

(b) sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription; and

(c) an individual or group plan that provides, or pays the cost of, care, services, or supplies related to the health of an individual; except any care, services, supplies, or plans provided by the United States Department of Defense, the United States Department of Veteran Affairs, or provided to Native Americans.

"Commission" shall refer to the Interstate Advisory Health Care Commission.

"Member State" means a state that is signatory to this Compact and has adopted it under the laws of that state.

"Member State Base Funding Level" means a number equal to the total federal spending on Health Care in the Member State during federal fiscal year 2010 as determined. On or before the effective date, each Member State shall determine the Member State Base Funding Level for its state, and that number shall be binding upon that Member State. (The preliminary estimate of Member State Base Funding Level for the State of Missouri is $18,669,000,000.)

"Member State Current Year Funding Level" means the Member State Base Funding Level multiplied by the Member State Current Year Population Adjustment Factor multiplied by the Current Year Inflation Adjustment Factor.

"Member State Current Year Population Adjustment Factor" means the average population of the Member State in the current year less the average population of the Member State in federal fiscal year 2010, divided by the average population of the Member State in federal fiscal year 2010, plus 1. Average population in a Member State shall be determined by the United States Census Bureau.

"Current Year Inflation Adjustment Factor" means the Total Gross Domestic Product Deflator in the current year divided by the Total Gross Domestic Product Deflator in federal fiscal year 2010. Total Gross Domestic Product Deflator shall be determined by the Bureau of Economic Analysis of the United States Department of Commerce.

SECTION 2. — Pledge. The Member States shall take joint and separate action to secure the consent of the United States Congress to this Compact in order to return the authority to regulate health care to the Member States, consistent with the goals and principles articulated in this Compact. The Member States shall improve health care policy within their respective jurisdictions and according to the judgment and discretion of each Member States.

SECTION 3. — Legislative Power. The legislatures of the Member States have the primary responsibility to regulate health care in their respective states.

SECTION 4. — State Control. Each Member State, within its state, may suspend by legislation the operation of all federal laws, rules, regulations, and orders regarding Health Care that are inconsistent with the laws and regulations adopted by the Member State pursuant to this Compact. Federal laws, rules, regulations, and orders regarding health care will remain in effect unless a Member State expressly suspends them pursuant to its authority under this Compact. For any federal law, rule, regulation, or order that remains

in effect in a Member State after the effective date, that Member State shall be responsible for the associated funding obligations in its state.

SECTION 5.— Funding.

(a) Each federal fiscal year, each Member State shall have the right to federal monies up to an amount equal to its Member State Current Year Funding Level for that federal fiscal year, funded by Congress as mandatory spending and not subject to annual appropriation, to support the exercise of Member State authority under this Compact. This funding shall not be conditional on any action of or regulation, policy, law, or rule being adopted by the Member State.

(b) By the start of each federal fiscal year, Congress shall establish an initial Member State Current Year Funding Level for each Member State, based upon reasonable estimates. The final Member State Current Year Funding Level shall be calculated, and funding shall be reconciled by the United States Congress, based upon information provided by each Member State and audited by the United States Government Accountability Office.

SECTION 6.— Interstate Advisory Health Care Commission.

(a) The Commission may study the issues of health care regulation of particular concern to the Member States. The Commission may make nonbinding recommendations to the Member States. The legislatures of the Member States may consider these recommendations in determining the appropriate health care policy in their respective states.

(b) The Commission shall collect information and data to assist the Member States in their regulation of health care, including assessing the performance of various state health care programs and compiling information on the prices health care. The Commission shall then make this information and data available to the legislatures of the Member States. Notwithstanding any other provision in this Compact, no Member State shall disclose to the Commission the health information of any individual, nor shall the Commission disclose the health information of any individual.

(c) The Commission consists of members appointed by each Member State through a process to be determined by the laws of each Member State. A Member State may not appoint more than two members to the Commission, and at any time a Member State may withdraw membership from the Commission at any time. Each Commission member is entitled to one vote. The Commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the commission's total membership.

(d) The Commission may elect from among its membership a chairperson. The Commission may adopt and publish bylaws and policies that are not inconsistent with this Compact. The Commission shall meet at least once a year, and may meet more frequently, as its bylaws direct.

(e) The Commission shall be funded by the Member States as agreed to by the Member States. The Commission shall have the responsibilities and duties as may be conferred upon it by subsequent action of the respective legislatures of the Member States in accordance with the terms of this Compact.

(f) The Commission shall not take any action within a Member State that contravenes any state law of that Member State.

SECTION 7.— Congressional Consent. This Compact shall be effective on its adoption by at least two Member States and consent of the United States Congress. This Compact shall be effective unless the United States Congress, in consenting to this Compact, alters the fundamental purposes of this Compact, which are:

(a) To secure the right of the Member States to regulate Health Care in their respective states pursuant to this Compact and to suspend the operation of any conflicting federal laws, rules, regulations, and orders within their states; and

(b) To secure federal funding for Member States that choose to invoke their authority under this Compact, as prescribed by Section 5 above.

SECTION 8. — Amendments. The Member States, by unanimous agreement, may amend this Compact from time to time without the prior consent or approval of Congress and any amendment shall be effective unless, within one year, the Congress disapproves that amendment. Any state may join this Compact after the date on which Congress consents to the Compact by adoption into law under its state Constitution.

SECTION 9. — Withdrawal; Dissolution. Any Member State may withdraw from this Compact by adopting a law to that effect, but no such withdrawal shall take effect until six months after the Governor of the withdrawing Member State has given notice of the withdrawal to the other Member States. This Compact shall be dissolved upon the withdrawal of all but one of the Member States.

No action taken by Governor, bill becomes law pursuant to Article III, Section 31, of the Missouri Constitution.

HB 431 [SS 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.

Changes the laws regarding foster care and adoption and establishes the Missouri State Foster Care and Adoption Board and a task force on foster care recruitment, licensing, and retention

AN ACT to repeal sections 210.112, 210.498, and 210.565, RSMo, and to enact in lieu thereof six new sections relating to foster care and adoption promotion.

SECTION

A. Enacting clause.
143.1015. Foster care and adoptive parents recruitment and retention fund, refund donation to — director's duties — sunset provision.
210.112. Children's services providers and agencies, contracting with, requirements — reports to general assembly — task force created — rulemaking authority.
210.498. Access to records on the suspension or revocation of a foster home license — procedure for release of information.
210.565. Relatives of child shall be given foster home placement, when — relative, defined — order of preference — specific findings required, when — sibling placement — age of relative not a factor, when — federal requirements to be followed for placement of Native American children — waiver of certain standards, when — GAL to ascertain child's wishes, when.
210.617. Missouri state foster care and adoption board created, duties, members, expenses, meetings — written annual report, when.
453.600. Fund created, use of moneys — board created, purpose, members, duties — sunset provision.

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

SECTION A. ENACTING CLAUSE. — Sections 210.112, 210.498, and 210.565, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 143.1015, 210.112, 210.498, 210.565, 210.617, and 453.600, to read as follows:

143.1015. FOSTER CARE AND ADOPTIVE PARENTS RECRUITMENT AND RETENTION FUND, REFUND DONATION TO — DIRECTOR'S DUTIES — SUNSET PROVISION. — 1. In each taxable year beginning on or after January 1, 2011, 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 foster care and adoptive parents recruitment and retention fund as established under section 453.600, hereinafter referred to as the fund. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the 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 foster care and adoptive parents recruitment and retention fund, the individual or corporation wishes to contribute. The department of revenue shall deposit such amount to the fund as provided in subsections 2 and 3 of this section. All moneys credited to the fund shall be considered nonstate funds under the provisions of article IV, section 15 of the Missouri Constitution.

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 fund.

3. The director of revenue shall deposit at least monthly all contributions designated by corporations under this section, less an amount sufficient to cover the costs of collection and handling by the department of revenue, to the state treasury for deposit to the fund.

4. A contribution designated under this section shall only be deposited in the fund after all other claims against the refund from which such contribution is to be made have been satisfied.

5. Moneys deposited in the fund shall be distributed by the department of social services in accordance with the provisions of this section and section 453.600.

6. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2011, 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.

210.112. CHILDREN'S SERVICES PROVIDERS AND AGENCIES, CONTRACTING WITH, REQUIREMENTS — REPORTS TO GENERAL ASSEMBLY — TASK FORCE CREATED — RULEMAKING AUTHORITY. — 1. It is the policy of this state and its agencies to implement a foster care and child protection and welfare system focused on providing the highest quality of services and outcomes for children and their families. The department of social services shall implement such system subject to the following principles:

(1) The safety and welfare of children is paramount;

(2) Providers of direct services to children and their families will be evaluated in a uniform and consistent basis;

(3) Services to children and their families shall be provided in a timely manner to maximize the opportunity for successful outcomes; and

(4) Any provider of direct services to children and families shall have the appropriate and relevant training, education, and expertise to provide the highest quality of services possible which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004.

2. On or before July 1, 2005, and subject to appropriations, the children's division and any other state agency deemed necessary by the division shall, in consultation with the community and providers of services, enter into and implement contracts with qualified children's services providers and agencies to provide a comprehensive and deliberate system of service delivery for

children and their families. Contracts shall be awarded through a competitive process and provided by children's services providers and agencies currently contracting with the state to provide such services and by public and private not-for-profit or limited liability corporations owned exclusively by not-for-profit corporations children's services providers and agencies which have:

(1) A proven record of providing child welfare services within the state of Missouri which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004; and

(2) The ability to provide a range of child welfare services, which may include case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case management, planned permanent living services, and family reunification services.

No contracts shall be issued for services related to the child abuse and neglect hotline, investigations of alleged abuse and neglect, and initial family assessments. Any contracts entered into by the division shall be in accordance with all federal laws and regulations, and shall not result in the loss of federal funding. Such children's services providers and agencies under contract with the division shall be subject to all federal, state, and local laws and regulations relating to the provision of such services, and shall be subject to oversight and inspection by appropriate state agencies to assure compliance with standards which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004.

3. In entering into and implementing contracts under subsection 2 of this section, the division shall consider and direct their efforts towards geographic areas of the state, including Greene County, where eligible direct children's services providers and agencies are currently available and capable of providing a broad range of services, including case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, family preservation services, foster care services, adoption services, relative care case management, other planned living arrangements, and family reunification services consistent with federal guidelines. Nothing in this subsection shall prohibit the division from contracting on an as-needed basis for any individual child welfare service listed above.

4. The contracts entered into under this section shall assure that:

(1) Child welfare services shall be delivered to a child and the child's family by professionals who have substantial and relevant training, education, or competencies otherwise demonstrated in the area of children and family services;

(2) Children's services providers and agencies shall be evaluated by the division based on objective, consistent, and performance-based criteria;

(3) Any case management services provided shall be subject to a case management plan established under subsection 5 of this section which is consistent with all relevant federal guidelines. The case management plan shall focus on attaining permanency in children's living conditions to the greatest extent possible and shall include concurrent planning and independent living where appropriate in accordance with the best interests of each child served and considering relevant factors applicable to each individual case as provided by law, including:

(a) The interaction and interrelationship of a child with the child's foster parents, biological or adoptive parents, siblings, and any other person who may significantly affect the child's best interests;

(b) A child's adjustment to his or her foster home, school, and community;

(c) The mental and physical health of all individuals involved, including any history of abuse of or by any individuals involved;

(d) The needs of the child for a continuing relationship with the child's biological or adoptive parents and the ability and willingness of the child's biological or adoptive parents to actively perform their functions as parents with regard to the needs of the child; and

(e) For any child under ten years old, treatment services may be available as defined in section 210.110. Assessments, as defined in section 210.110, may occur to determine which treatment services best meet the child's psychological and social needs. When the assessment indicates that a child's needs can be best resolved by intensive twenty-four-hour treatment services, the division will locate, contract, and place the child with the appropriate organizations. This placement will be viewed as the least restrictive for the child based on the assessment;

(4) The delivery system shall have sufficient flexibility to take into account children and families on a case-by-case basis;

(5) The delivery system shall provide a mechanism for the assessment of strategies to work with children and families immediately upon entry into the system to maximize permanency and successful outcome in the shortest time possible and shall include concurrent planning. Outcome measures for private and public agencies shall be equal for each program; and

(6) Payment to the children's services providers and agencies shall be made based on the reasonable costs of services, including responsibilities necessary to execute the contract. Contracts shall provide incentives in addition to the costs of services provided in recognition of accomplishment of the case goals and the corresponding cost savings to the state. The division shall promulgate rules to implement the provisions of this subdivision.

5. Contracts entered into under this section shall require that a case management plan consistent with all relevant federal guidelines shall be developed for each child at the earliest time after the initial investigation, but in no event longer than fourteen days after the initial investigation or referral to the contractor by the division. Such case management plan shall be presented to the court and be the foundation of service delivery to the child and family. The case management plan shall, at a minimum, include:

(1) An outcome target based on the child and family situation achieving permanency or independent living, where appropriate;

(2) Services authorized and necessary to facilitate the outcome target;

(3) Time frames in which services will be delivered; and

(4) Necessary evaluations and reporting.

In addition to any visits and assessments required under case management, services to be provided by a public or private children's services provider under the specific case management plan may include family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case services, planned permanent living services, and family reunification services. In all cases, an appropriate level of services shall be provided to the child and family after permanency is achieved to assure a continued successful outcome.

6. **The division shall convene a task force to review the recruitment, licensing and retention of foster and adoptive parents statewide. In addition to representatives of the division and department, the task force shall include representatives of the private sector and faith-based community which provide recruitment and licensure services. The purpose of the task force will be to study the extent to which changes in the system of recruiting, licensing, and retaining foster and adoptive parents would enhance the effectiveness of the system statewide. The task force shall develop a report of its findings with recommendations by December 1, 2011, and provide copies of the report to the general assembly and to the governor.**

7. On or before July 15, 2006, and each July fifteenth thereafter that the project is in operation, the division shall submit a report to the general assembly which shall include:

(1) Details about the specifics of the contracts, including the number of children and families served, the cost to the state for contracting such services, the current status of the children and families served, an assessment of the quality of services provided and outcomes achieved, and an overall evaluation of the project; and

(2) Any recommendations regarding the continuation or possible statewide implementation of such project; and

(3) Any information or recommendations directly related to the provision of direct services for children and their families that any of the contracting children's services providers and agencies request to have included in the report.

[7.**] 8.** The division shall accept as prima facie evidence of completion of the requirements for licensure under sections 210.481 to 210.511 proof that an agency is accredited by any of the following nationally recognized bodies: the Council on Accreditation of Services, Children and Families, Inc.; the Joint Commission on Accreditation of Hospitals; or the Commission on Accreditation of Rehabilitation Facilities. The division shall not require any further evidence of qualification for licensure if such proof of voluntary accreditation is submitted.

[8.**] 9.** By February 1, 2005, the children's division shall promulgate and have in effect rules to implement the provisions of this section and, pursuant to this section, shall define implementation plans and dates. Any rule or portion of a rule, as that term is defined in section 536.010, 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

210.498. ACCESS TO RECORDS ON THE SUSPENSION OR REVOCATION OF A FOSTER HOME LICENSE — PROCEDURE FOR RELEASE OF INFORMATION. — Any parent or legal guardian may have access to investigation records kept by the division regarding a decision for the denial of or the suspension or revocation of a license to a specific person to operate or maintain a foster home if such specific person does or may provide services or care to a child of the person requesting the information. The request for the release of such information shall be made to the division director or the director's designee, in writing, by the parent or legal guardian of the child and shall be accompanied with a signed and notarized release form from the person who does or may provide care or services to the child. The notarized release form shall include the full name, date of birth and Social Security number of the person who does or may provide care or services to a child. The response shall include **only** information pertaining to the nature and disposition of any denial, suspension or revocation of a license to operate a foster home. This response shall not include any identifying information regarding any person other than the person to whom a foster home license was denied, suspended or revoked. The response shall be given within ten working days of the time it was received by the division.

210.565. RELATIVES OF CHILD SHALL BE GIVEN FOSTER HOME PLACEMENT, WHEN — RELATIVE, DEFINED — ORDER OF PREFERENCE — SPECIFIC FINDINGS REQUIRED, WHEN — SIBLING PLACEMENT — AGE OF RELATIVE NOT A FACTOR, WHEN — FEDERAL REQUIREMENTS TO BE FOLLOWED FOR PLACEMENT OF NATIVE AMERICAN CHILDREN — WAIVER OF CERTAIN STANDARDS, WHEN — GAL TO ASCERTAIN CHILD'S WISHES, WHEN. — 1. Whenever a child is placed in a foster home and the court has determined pursuant to subsection 3 of this section that foster home placement with relatives is not contrary to the best interest of the child, the children's division shall give foster home placement to relatives of the child. Notwithstanding any rule of the division to the contrary, the children's division shall make diligent efforts to locate the grandparents of the child and determine whether they wish to be considered for placement of the child. Grandparents who request consideration shall be given preference and first consideration for foster home placement of the child. If more than one grandparent requests consideration, the family support team shall make recommendations to the juvenile or family court about which grandparent should be considered for placement.

2. As used in this section, the term "relative" means a grandparent or any other person related to another by blood or affinity within the third degree. The status of a grandparent shall not be affected by the death or the dissolution of the marriage of a son or daughter.

3. **The following shall be the order or preference for placement of a child under this section:**

(1) Grandparents and relatives;

(2) A trusted adult that has a preexisting relationship with the child, such as a godparent, teacher, neighbor, or fellow parishioner who voluntarily agrees to care for the child; and

(3) Any foster parent who is currently licensed and capable of accepting placement of the child.

4. The preference for placement and first consideration for grandparents or preference for placement with other relatives created by this section shall only apply where the court finds that placement with such grandparents or other relatives is not contrary to the best interest of the child considering all circumstances. If the court finds that it is contrary to the best interest of a child to be placed with grandparents or other relatives, the court shall make specific findings on the record detailing the reasons why the best interests of the child necessitate placement of the child with persons other than grandparents or other relatives.

5. Recognizing the critical nature of sibling bonds for children, the children's division shall make reasonable efforts to place siblings in the same foster care, kinship, guardianship, or adoptive placement, unless doing so would be contrary to the safety or well-being of any of the siblings. If siblings are not placed together, the children's division shall make reasonable efforts to provide frequent visitation or other ongoing interaction between the siblings, unless this interaction would be contrary to a sibling's safety or well-being.

[4.**] 6.** The age of the child's grandparent or other relative shall not be the only factor that the children's division takes into consideration when it makes placement decisions and recommendations to the court about placing the child with such grandparent or other relative.

[5.**] 7.** For any Native American child placed in protective custody, the children's division shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

[6.**] 8.** A grandparent or other relative may, on a case-by-case basis, have standards for licensure not related to safety waived for specific children in care that would otherwise impede licensing of the grandparent's or relative's home. **In addition, any person receiving a preference may be licensed in an expedited manner if a child is placed under such person's care.**

[7.**] 9.** The guardian ad litem shall ascertain the child's wishes and feelings about his or her placement by conducting an interview or interviews with the child, if appropriate based on the child's age and maturity level, which shall be considered as a factor in placement decisions and recommendations, but shall not supersede the preference for relative placement created by this section or be contrary to the child's best interests.

210.617. MISSOURI STATE FOSTER CARE AND ADOPTION BOARD CREATED, DUTIES, MEMBERS, EXPENSES, MEETINGS — WRITTEN ANNUAL REPORT, WHEN. — 1. There is hereby created within the department of social services the "Missouri State Foster Care and Adoption Board", which shall provide consultation and assistance to the department and shall draft and provide an independent review of the children's division policies and procedures related to the provision of foster care and adoption in Missouri. Additionally, the board shall determine the nature and content of in-service training which shall be provided to foster and adoptive parents in order to improve the provision of foster care and adoption services to children statewide consistent with section 210.566. The board shall be comprised of foster and adoptive parents as follows:

(1) Two members from each of the seven children's division areas within the department of social services delineated as follows:

(a) The northwest region;

(b) The northeast region;

(c) The southeast region;

(d) The southwest region;

(e) The Kansas City region;

(f) The St. Louis area region;

(g) The St. Louis City region;

(2) Area members shall be appointed by the governor, with the advice and consent of the senate, based upon recommendations by regional foster care and adoption boards, or other similar entities.

2. Statewide foster care and adoption association representatives shall be voting members of the board as approved by the board.

3. All members of the board shall serve for a term of at least two years. Members may be reappointed to the board by their entities for consecutive terms. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner in which the board membership which is vacant was originally filled.

4. Each member of the board may be reimbursed for actual and necessary expenses incurred by the member in performance of his or her official duties. All reimbursements made under this subsection shall be made from funds within the department of social services' children's division budget.

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

6. The board shall elect officers from the membership consisting of a chairperson, co-chairperson, and secretary. Officers shall serve for a term of two years. The board may elect such other officers and establish such committees as it deems appropriate.

7. The board shall establish such procedures necessary to:

(1) Review children's division proposed policy and provide written opinions and recommendations for change to the children's division within thirty days of receipt of the proposed policy;

(2) Provide draft policy suggestions, at the request of the children's division or in response to issues by the board, to the children's division for improvements in foster care or adoption practice; and

(3) Fulfill its statutory requirement in accordance with section 210.566 to determine the content of in-service training to be provided by the children's division to foster and adoptive parents.

8. The board shall provide to the director of the department of social services, the governor, the office of the child advocate, and upon request, members of the general assembly, a written report of annual activities conducted and made.

9. The board shall exercise its powers and duties independently of the children's division within the department of social services in order to ensure partnership and accountability in the provision of services to the state's children affected by abuse and neglect. Budgetary, procurement, and accounting functions shall continue to be performed by the children's division.

453.600. FUND CREATED, USE OF MONEYS — BOARD CREATED, PURPOSE, MEMBERS, DUTIES — SUNSET PROVISION. — 1. There is hereby created in the state treasury the "Foster Care and Adoptive Parents Recruitment and Retention Fund" which shall consist of all gifts, donations, transfers, and moneys appropriated by the general assembly, and bequests to the fund. The fund shall maintain no more than the total of the last two years of funding or a minimum of three hundred thousand dollars, whichever is greater. The

fund shall be administered by the foster care and adoptive parents recruitment and retention fund board created in subsection 3 of this section.

2. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Notwithstanding the provisions of section 33.080 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. 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.

3. There is hereby created the "Foster Care and Adoptive Parents Recruitment and Retention Fund Board" within the department of social services. The board shall consist of the following members or their designees:

(1) The director of the department of social services;

(2) The director of the department of mental health;

(3) The director of the department of health and senior services;

(4) The following six members to be appointed by the director of the department of social services:

(a) Two representatives of a recognized foster parent association;

(b) Two representatives of a licensed child-placing agency; and

(c) Two representatives of a licensed residential treatment center.

Members appointed under subdivision (4) of this subsection shall serve three-year terms, subject to reappointment. Of the members initially appointed, three shall be appointed for a two-year term and three shall be appointed three-year terms. All members of the board shall serve without compensation but shall, subject to appropriation, be reimbursed for reasonable and necessary expenses actually incurred in the performance of their official duties as members of the board. The department of social services shall, with existing resources, provide administrative support and current staff as necessary for the effective operation of the board.

4. Upon appropriation, moneys in the fund shall be used to grant awards to licensed community-based foster care and adoption recruitment programs. The board shall establish guidelines for disbursement of the fund to certain programs. Such programs shall include, but not be limited to, recruitment and retention of foster and adoptive families for children who:

(1) Have been in out-of-home placement for fifteen months or more;

(2) Are more than twelve years of age; or

(3) Are in sibling groups.

Moneys in the fund shall not be subject to appropriation for purposes other than those of evidence-based foster care and adoption programs as designated by the board established under this section.

5. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new fund authorized under this section shall automatically sunset six years after August 28, 2011, unless reauthorized by an act of the general assembly; and

(2) If such fund is reauthorized, the fund 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 fund authorized under this section is sunset.

Approved July 12, 2011

HB 458 [CCS SS HB 458]

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 agriculture

AN ACT to repeal sections 144.030, 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, 263.450, 268.121, 276.401, 276.416, 276.421, 276.436, 276.441, 276.446, and 411.280, RSMo, and to enact in lieu thereof thirteen new sections relating to agriculture, with penalty provisions.

SECTION

A. Enacting clause.
144.030. Exemptions from state and local sales and use taxes.
262.815. Citation of law, purpose — trust created, objectives — advisory board created, members, duties, terms — fund created — rulemaking authority.
263.190. Owners to control noxious weeds — notice procedure — penalty — sale of noxious weeds prohibited.
263.200. County commission duties to control noxious weeds, official immunity, landowner duty of care — special tax for cost, collection — provisions applicable to certain political subdivisions.
263.220. Duty of prosecuting attorney.
263.240. Penalty for violation.
268.121. Recorded brand list a public record, furnished to general public at cost.
276.401. Title, and scope of the law — definitions.
276.421. Financial statement to accompany application, how prepared — false statement, penalty — minimum net worth and assets required.
276.436. Amount of bond — director to establish by rule — formula — minimum and maximum — additional bond because of low net worth or other circumstances — failure to maintain, effect.
276.441. Dealer may request use of minimum bond, procedure.
411.280. Warehouseman's net worth, requirements — deficiency, how corrected.
442.014. Private landowner protection act — definitions — conservation easement permitted, when, validity — applicability.
263.205. Multiflora rose a noxious weed, exceptions — counties may establish programs and funds to control noxious weeds.
263.230. Control of spread of bindweed, by whom.
263.232. Eradication and control of the spread of teasel, kudzu vine, and spotted knapweed.
263.241. Plant, purple loosestrife (Lythrum salicaria) declared a noxious weed — distribution for control experiments only, permit required, violations, penalty.
263.450. Noxious weed, defined — designation of noxious weed by director of department of agriculture.
276.416. Application to list dollar amounts of grain purchased or to be purchased.
276.446. Small dealers may have lower minimum bond.

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

SECTION A. ENACTING CLAUSE. — Sections 144.030, 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, 263.450, 268.121, 276.401, 276.416, 276.421, 276.436, 276.441, 276.446, and 411.280, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 144.030, 262.815, 263.190, 263.200, 263.220, 263.240, 268.121, 276.401, 276.421, 276.436, 276.441, 411.280, and 442.014, to read as follows:

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

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

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

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

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

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

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

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

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

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

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

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

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

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

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

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

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

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids,

all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

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

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

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers**, and any freight charges on any exempt item**. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon **and any accessories for and upgrades to such farm machinery and equipment, rotary mowers used exclusively for agricultural purposes**, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

(a) Used exclusively for agricultural purposes;

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

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

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

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

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

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

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

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

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

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such agency as provided pursuant to the compact;

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

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

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

(31) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (4) of this subsection;

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

(33) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

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

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

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

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

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

(37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located

outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, and all sales of utilities by such authority at the authority's cost that are consumed in connection with the operation of a sports complex leased to a professional sports team;

(40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories;

(41) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or similar places of business for use in the normal course of business and money received by a shooting range or similar places of business from patrons and held by a shooting range or similar place of business for redistribution to patrons at the conclusion of a shooting event.

262.815. CITATION OF LAW, PURPOSE — TRUST CREATED, OBJECTIVES — ADVISORY BOARD CREATED, MEMBERS, DUTIES, TERMS — FUND CREATED — RULEMAKING AUTHORITY. — 1. This section shall be known and may be cited as the "Missouri Farmland Trust Act". The purpose of this section is to allow individuals and entities to donate, gift, or otherwise convey farmland to the state department of agriculture for the purpose of preserving the land as farmland and to further provide beginning farmers with an opportunity to farm by allowing long-term low and variable cost leases, thereby making it affordable for the next generation of farmers to continue to produce food, fiber, and fuel.

2. There is hereby created the "Missouri Farmland Trust" which shall be implemented in a manner to accomplish the following objectives:

(1) Protect and preserve Missouri's farmland;

(2) Link new generations of prospective farmers with present farmers; and

(3) Promote best practices in environmental, livestock, and land stewardship.

3. (1) There is hereby created within the department of agriculture the "Missouri Farmland Trust Advisory Board" which shall be comprised of five members appointed by the director of the department of agriculture. Members shall serve without compensation but, subject to appropriations, may be reimbursed for actual and necessary expenses.

(2) The board shall make recommendations to the director on the appropriate uses of farmland in the trust, criteria to be used to select applicants for the program, and review and make recommendations regarding applications to lease farmland in the trust.

(3) Members shall serve five-year terms, with each term beginning July first and ending June thirtieth; except that, of the members initially appointed two shall be appointed for a term of three years, two shall be appointed for a term of four years, and one shall be appointed for a term of five years. Each member shall serve until his or her successor is appointed. Any vacancies occurring prior to the expiration of a term shall be filled by appointment for the remainder of such term. No member shall serve more than two consecutive terms.

4. The department of agriculture is authorized to accept or acquire by purchase, lease, donation, or agreement any agricultural lands, easements, real and personal property, or rights in lands, easements, or real and personal property, including but not limited to buildings, structures, improvements, equipment, or facilities subject to preservation and improvement. Such lands shall be properties of the Missouri farmland trust for purposes of this section and shall be governed by the provisions of this section and rules promulgated thereunder.

5. (1) There is hereby created in the state treasury the "Missouri Farmland Trust Fund", which shall consist of all gifts, bequests, donations, transfers, and moneys appropriated by the general assembly under this section. The state treasurer shall be

custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. Upon appropriation, money in the fund shall be used for the administration of this section and may be used to make payments to counties for the value of land as payment in lieu of real and personal property taxes for privately owned land acquired after the effective date of this section in such amounts as determined by the department; except that, the amount determined shall not be less than the real property tax paid at the time of acquisition. The department of agriculture may require applicants who are awarded leases to pay the property taxes owed under this section for such property.

(2) Notwithstanding the provisions of section 33.080 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.

(3) 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.

6. The department of agriculture is authorized to accept all moneys, appropriations, gifts, bequests, donations, or other contributions of moneys or other real or personal property to be expended or used for any of the purposes of this section. The department may improve, maintain, operate, and regulate any such lands, easements, or real or personal property to promote agriculture and the general welfare using moneys in the fund. Property acquired by the department under this section shall be used for agricultural purposes. The director shall establish by rule guidelines for leasing farmland to the trust to beginning farmers for a period not to exceed twenty years. All property acquired by the department under this section shall be farmed and maintained using the best environmental, conservation, and stewardship practices as outlined by the department. The department may charge an administrative fee for lease application processing under this section.

7. The department, in consultation with the Missouri farmland advisory board, shall promulgate rules to implement the provisions of this section, including but not limited to requirements for lessees, selection process for granting leases, and the terms of the lease, including requirements for applicants, renewal process, requirements for the maintenance of real and personal property by the lessee, and conditions for the termination of leases.

8. Any person or entity donating land to or leasing land from the department shall forever release the state of Missouri, the Missouri department of agriculture, the department's director, officers, employees, volunteers, agents, contractors, servants, heirs, successors, assigns, persons, firms, corporations, representatives, and other entities who are or who will be acting in concert or privity with or on behalf of the state from any and all actions, claims, or demands that he or she, family members, heirs, successors, assigns, agents, servants, employees, distributees, guardians, next-of-kin, spouse, and legal representatives now have or may have in the future for any injury, death, property damage related to:

(1) Participation in such activities;

(2) The negligence, intentional acts, or other acts, whether directly connected to such activities or not, and however caused; and

(3) The condition of the premises where such activities occur.

9. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2011, shall be invalid and void.

263.190. OWNERS TO CONTROL NOXIOUS WEEDS — NOTICE PROCEDURE — PENALTY — SALE OF NOXIOUS WEEDS PROHIBITED. — 1. **[**The plants musk thistle (Carduus nutans L.), Scotch thistle (Onoprodum acanthium L.) and Canada thistle (Cirsium arvense) are hereby designated as noxious weeds. All owners of land shall control all such plants growing upon their land**] As used in sections 263.190 to 263.474, "noxious weed" means any weed designated as noxious by rules promulgated by the director of the department of agriculture. The department shall maintain a list of such noxious weeds and shall make such list available to the public. The department of agriculture shall promulgate rules necessary to implement the provisions of this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this subsection shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2011, shall be invalid and void**.

2. It shall be the duty of every owner of lands in this state**, including but not limited to any person, association of persons, corporation, partnership, state highways and transportation commission, state department, state agency, county commission, township board, school board, drainage board, governing body of an incorporated city, railroad company or other transportation company and such company's authorized agent, and any person supervising state-owned lands** to control all **[**Canada, musk, or Scotch thistles**] noxious weeds** growing thereon so often in each and every year as shall be sufficient to prevent **[**said thistles**] such noxious weeds** from going to seed. If any owner of such land shall knowingly allow any **[**Canada, musk, or Scotch thistles**] noxious weeds** to grow thereon, such owner shall forfeit and pay the sum of one hundred dollars to the county commission for every such offense, and such sum forfeited plus court costs may be recovered by civil action instituted by the prosecuting attorney in the name of the county commission before any associate circuit judge of the county in which the offense is committed. All sums recovered by virtue of this section shall be paid to the use of the county control fund.

3. Before initiating any civil action under this section, the prosecuting attorney of the county in which the land, or the greater part thereof, is located shall notify the owner of the land of the requirements of this law, by certified mail, return receipt requested, from a list supplied by the officer who prepares the tax list, and shall allow the owner of the land fifteen days from acknowledgment date of return receipt, or date of refusal of acceptance, as the case may be, to **initiate** control **of** all such plants growing upon **[**his**] the owner's** land. Failure of the owner to **initiate** control **of** such plants within the fifteen-day period shall be prima facie evidence of the owner's knowledge that **[**he**] the owner** is in violation of this law, and each fifteen days the violation continues after the initial fifteen-day period shall, for the purpose of forfeiture and penalty herein, be considered a separate offense.

4. All sales of noxious weed species are prohibited.

263.200. COUNTY COMMISSION DUTIES TO CONTROL NOXIOUS WEEDS, OFFICIAL IMMUNITY, LANDOWNER DUTY OF CARE — SPECIAL TAX FOR COST, COLLECTION — PROVISIONS APPLICABLE TO CERTAIN POLITICAL SUBDIVISIONS. — 1. In addition to the remedies provided in section 263.190, when **[**Canada, musk, or Scotch thistles**] noxious weeds** are discovered growing on any lands in the county, it shall be the duty of the county commission to control such **[**thistles**] noxious weeds** so as to prevent the seed from ripening, and for that purpose the county commission, or its agents, servants, or employees shall have authority to enter

on such lands without being liable to an action of trespass therefor, and shall have such official immunity as exists at common law for any misfeasance or damages occurring in connection with the attempt to control **[**Canada, musk, or Scotch thistles**] noxious weeds**. Notwithstanding any provision of law to the contrary, the county shall be liable for any misfeasance or actual damages caused by its agents, servants, or employees in connection with the attempt to control **[**Canada, musk, or Scotch thistles**] noxious weeds**. The landowner shall owe no duty of care to such persons, except that which the landowner owes to trespassers. The county commission shall keep an accurate account of the expenses incurred in controlling the **[**thistles**] noxious weeds**, and shall verify such statement under seal of the county commission, and transmit the same to the officer whose duty it is or may be to extend state and county taxes on tax books or bills against real estate; and such officer shall extend the aggregate expenses so charged against each tract of land as a special tax, which shall then become a lien on the lands, and be collected as state and county taxes are collected by law and paid to the county commission and credited to the county control fund.

2. Before proceeding to control **[**Canada, musk, or Scotch thistles**] noxious weeds** as provided in this section, the county commission of the county in which the land, or the greater part thereof, is located shall notify the owner of the land of the requirements of this law, by certified mail, return receipt requested, from a list supplied by the officer who prepares the tax list, and shall allow the owner of the land fifteen days from acknowledgment date of return receipt, or date of refusal of acceptance of delivery, as the case may be, to control all such **[**plants**] noxious weeds** growing upon **[**his**] the owner's** land.

3. Any land or properties that are owned solely by a political subdivision in a city not within a county shall be subject to all provisions of sections 263.190, 263.200, and 263.240.

263.220. DUTY OF PROSECUTING ATTORNEY. — It shall be the duty of the prosecuting attorney of the county to prosecute all actions brought under **[**sections 263.190 to 263.240**] section 263.190**.

263.240. PENALTY FOR VIOLATION. — **[**Any person who shall violate any of the provisions of sections 263.210 to 263.240 shall, upon conviction, be guilty of**] A violation of section 263.190 is** a misdemeanor.

268.121. RECORDED BRAND LIST A PUBLIC RECORD, FURNISHED TO GENERAL PUBLIC AT COST. — It shall be the duty of the director from time to time to **[**cause to be published in book form**] create** a list of all brands on record at **[**the time of the publication**] that time and make such list available to the public on a publicly-accessible website**. The **[**lists may be supplemented**] list shall be updated** from time to time. The **[**publication**] list** shall contain a facsimile of all brands recorded and the owner's name and post-office address. The records shall be arranged in convenient form for reference. **[**It shall be the duty of the director to send one copy of the brand book and supplements to the county recorder of deeds of each county and to each licensed livestock market and slaughter plant in the state. The books and supplements shall be furnished without cost to the livestock market or slaughter plant or to the county and shall be kept as a matter of public record.**]** The **[**books and supplements**] list** may be sold to the general public at the cost of **its** printing and mailing **[**each book**]**.

276.401. TITLE, AND SCOPE OF THE LAW — DEFINITIONS. — 1. Sections 276.401 to 276.582 shall be known as the "Missouri Grain Dealer Law".

2. The provisions of the Missouri grain dealer law shall apply to grain purchases where title to the grain transfers from the seller to the buyer within the state of Missouri.

3. Unless otherwise specified by contractual agreement, title shall be deemed to pass to the buyer as follows:

(1) On freight on board (FOB) origin or freight on board (FOB) basing point contracts, title transfers at time and place of shipment;

(2) On delivered contracts, when and where constructively placed, or otherwise made available at buyer's original destination;

(3) On contracts involving in-store commodities, at the storing warehouse and at the time of contracting or transfer, and/or mailing of documents, if required, by certified mail, unless and to the extent warehouse tariff, warehouse receipt and/or storage contract assumes the risk of loss and/or damage.

4. As used in sections 276.401 to 276.582, unless the context otherwise requires, the following terms mean:

(1) "Auditor", a person appointed under sections 276.401 to 276.582 by the director to assist in the administration of sections 276.401 to 276.582, and whose duties include making inspections, audits and investigations authorized under sections 276.401 to 276.582;

(2) "Authorized agent", any person who has the legal authority to act on behalf of, or for the benefit of, another person;

(3) "Buyer", any person who buys or contracts to buy grain;

(4) "Certified public accountant", any person licensed as such under chapter 326;

(5) "Claimant", any person who requests payment for grain sold by him to a dealer, but who does not receive payment because the purchasing dealer fails or refuses to make payment;

(6) "Credit sales contracts", a conditional grain sales contract wherein payment and/or pricing of the grain is deferred to a later date. Credit sales contracts include, but are not limited to, all contracts meeting the definition of deferred payment contracts, and/or delayed price contracts;

(7) "Current assets", resources that are reasonably expected to be realized in cash, sold, or consumed (prepaid items) within one year of the balance sheet date;

(8) "Current liabilities", obligations reasonably expected to be liquidated within one year and the liquidation of which is expected to require the use of existing resources, properly classified as current assets, or the creation of additional liabilities. Current liabilities include obligations that, by their terms, are payable on demand unless the creditor has waived, in writing, the right to demand payment within one year of the balance sheet date;

(9) "Deferred payment agreement", a conditional grain sales transaction establishing an agreed upon price for the grain and delaying payment to an agreed upon later date or time period. Ownership of the grain, and the right to sell it, transfers from seller to buyer so long as the conditions specified in section 276.461 and section 411.325 are met;

(10) "Deferred pricing agreement", a conditional grain sales transaction wherein no price has been established on the grain, the seller retains the right to price the grain later at a mutually agreed upon method of price determination. Deferred pricing agreements include, but are not limited to, contracts commonly known as no price established contracts, price later contracts, and basis contracts on which the purchase price is not established at or before delivery of the grain. Ownership of the grain, and the right to sell it, transfers from seller to buyer so long as the conditions specified in section 276.461 and section 411.325 are met;

(11) "Delivery date" shall mean the date upon which the seller transfers physical possession, or the right of physical possession, of the last unit of grain in any given transaction;

(12) "Department", the Missouri department of agriculture;

(13) "Designated representative", an employee or official of the department designated by the director to assist in the administration of sections 276.401 to 276.582;

(14) "Director", the director of the Missouri department of agriculture or his designated representative;

(15) "Generally accepted accounting principles", the conventions, rules and procedures necessary to define accepted accounting practice, which include broad guidelines of general application as well as detailed practices and procedures generally accepted by the accounting

profession, and which have substantial authoritative support from the American Institute of Certified Public Accountants;

(16) "Grain", all grains for which the United States Department of Agriculture has established standards under the United States Grain Standards Act, Sections 71 to 87, Title 7, United States Code, and any other agricultural commodity or seed prescribed by the director by regulation;

(17) "Grain dealer" or "dealer", any person engaged in the business of, or as a part of his business participates in, buying grain where title to the grain transfers from the seller to the buyer within the state of Missouri. "Grain dealer" or "dealer" shall not be construed to mean or include:

(a) Any person or entity who is a member of a recognized board of trade or futures exchange and whose trading in grain is limited solely to trading with other members of a recognized board of trade or futures exchange; provided, that grain purchases from a licensed warehouseman, farmer/producer or any other individual or entity in a manner other than through the purchase of a grain futures contract on a recognized board of trade or futures exchange shall be subject to sections 276.401 to 276.582. Exempted herein are all futures transactions;

(b) A producer or feeder of grain for livestock or poultry buying grain for his own farming or feeding purposes who purchases grain exclusively from licensed grain dealers or whose total grain purchases from producers during his or her fiscal year do not exceed **[**one hundred thousand dollars**] fifty thousand bushels**;

(c) Any person or entity whose grain purchases in the state of Missouri are made exclusively from licensed grain dealers;

(d) A manufacturer or processor of registered or unregistered feed whose total grain purchases from producers during his or her fiscal year does not exceed one hundred thousand dollars and who pays for all grain purchases from producers at the time of physical transfer of the grain from the seller or his or her agent to the buyer or his or her agent and whose resale of such grain is solely in the form of manufactured or processed feed or feed by-products or whole feed grains to be used by the purchaser thereof as feed;

(18) "Grain transport vehicle", a truck, tractor-trailer unit, wagon, pup, or any other vehicle or trailer used by a dealer, whether owned or leased by him, to transport grain which he has purchased; except that, bulk or bagged feed delivery trucks which are used principally for the purpose of hauling feed and any trucks for which the licensed gross weight does not exceed twenty-four thousand pounds shall not be construed to be a grain transport vehicle;

(19) "Insolvent" or "insolvency", (a) an excess of liabilities over assets or (b) the inability of a person to meet his financial obligations as they come due, or both (a) and (b);

(20) "Interested person", any person having a contractual or other financial interest in grain sold to a dealer, licensed, or required to be licensed;

(21) "Location", any site other than the principal office where the grain dealer engages in the business of purchasing grain;

(22) "Minimum price contract", a conditional grain sales transaction establishing an agreed upon minimum price where the seller may participate in subsequent price gain, if any. Ownership of the grain, and the right to sell it, transfers from the seller to the buyer so long as the conditions specified in section 276.461 and section 411.325 are met;

(23) "Person", any individual, partnership, corporation, cooperative, society, association, trustee, receiver, public body, political subdivision or any other legal or commercial entity of any kind whatsoever, and any member, officer or employee thereof;

(24) "Producer", any owner, tenant or operator of land who has an interest in and receives all or any part of the proceeds from the sale of grain or livestock produced thereon;

(25) "Purchase", to buy or contract to buy grain;

(26) "Sale", the passing of title from the seller to the buyer in consideration of the payment or promise of payment of a certain price in money, or its equivalent;

(27) "Value", any consideration sufficient to support a simple contract.

276.421. FINANCIAL STATEMENT TO ACCOMPANY APPLICATION, HOW PREPARED — FALSE STATEMENT, PENALTY — MINIMUM NET WORTH AND ASSETS REQUIRED. — 1. All applications shall be accompanied by a true and accurate financial statement of the applicant, prepared within six months of the date of application, setting forth all the assets, liabilities and net worth of the applicant. **In the event that the applicant has been engaged in business as a grain dealer for at least one year, the financial statement shall set forth the aggregate dollar amount paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the last completed fiscal period of the applicant. In the event the applicant has been engaged in business for less than one year or has not previously engaged in business as a grain dealer, the financial statement shall set forth the estimated aggregate dollar amount to be paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the applicant's initial fiscal period.** All applications shall also be accompanied by a true and accurate statement of income and expenses for the applicant's most recently completed fiscal year. The financial statements required by this chapter shall be prepared in conformity with generally accepted accounting principles; except that, the director may promulgate rules allowing for the valuation of assets by competent appraisal.

2. The financial statement required by subsection 1 of this section shall be audited or reviewed by a certified public accountant. The financial statement may not be audited or reviewed by the applicant, or an employee of the applicant, if an individual, or, if the applicant is a corporation or partnership, by an officer, shareholder, partner, or a direct employee of the applicant.

3. The director may require any additional information or verification with respect to the financial resources of the applicant as he deems necessary for the effective administration of this chapter. The director may promulgate rules setting forth minimum standards of acceptance for the various types of financial statements filed in accordance with the provisions of this chapter. The director may promulgate rules requiring a statement of retained earnings, a statement of changes in financial position, and notes and disclosures to the financial statements for all licensed grain dealers or all grain dealers required to be licensed. The additional information or verification referred to herein may include, but is not limited to, requiring that the financial statement information be reviewed or audited in accordance with standards established by the American Institute of Certified Public Accountants.

4. All grain dealers shall provide the director with a copy of all financial statements and updates to financial statements utilized to secure the bonds required by sections 276.401 to 276.582.

5. All financial statements submitted to the director for the purposes of this chapter shall be accompanied by a certification by the applicant or the chief executive officer of the applicant, subject to the penalty provision set forth in subsection 4 of section 276.536, that to the best of his knowledge and belief the financial statement accurately reflects the financial condition of the applicant for the fiscal period covered in the statement.

6. Any person who knowingly prepares or assists in the preparation of an inaccurate or false financial statement which is submitted to the director for the purposes of this chapter, or who during the course of providing bookkeeping services or in reviewing or auditing a financial statement which is submitted to the director for the purposes of this chapter, becomes aware of false information in the financial statement and does not disclose in notes accompanying the financial statements that such false information exists, or does not disassociate himself from the financial statements prior to submission, is guilty of a class C felony. Additionally, such persons are liable for any damages incurred by sellers of grain selling to a grain dealer who is licensed or allowed to maintain his license based upon inaccuracies or falsifications contained in the financial statement.

7. **[**Except as set forth in section 276.511 which mandates higher requirements for class I grain dealers,**]** Any licensed grain dealer or applicant for a grain dealer's license **[**who purchases less than four hundred thousand dollars worth of grain, during the dealer's last completed fiscal year, in the state of Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 must**] shall** maintain a minimum net worth equal to **[**the greater of ten thousand dollars or**]** five percent of **[**such**] annual** grain purchases**[**. If grain purchases during the dealer's last completed fiscal year are four hundred thousand dollars or more, the dealer must maintain a net worth equal to the greater of twenty thousand dollars or one percent of grain purchases**] as set forth in the financial statements required by this chapter**. If the dealer or applicant is deficient in meeting this net worth requirement, he must post additional bond as required in section 276.436.

8. Any licensed grain dealer or applicant for a grain dealer's license shall have and maintain current assets at least equal to one hundred percent of current liabilities. The financial statement required by this chapter shall set forth positive working capital in the form of a current ratio of the total adjusted current assets to the total adjusted current liabilities of at least one to one.

(1) The director may allow applicants to offset negative working capital by increasing the grain dealer surety bond required by section 276.426 up to the total amount of negative working capital at the discretion of the director.

(2) Adjusted current assets shall be calculated by deducting from the stated current assets shown on the financial statement submitted by the applicant any current asset resulting from notes receivable from related persons, accounts receivable from related persons, stock subscriptions receivable, and any other related person receivables.

(3) A disallowed current asset shall be netted against any related liability and the net result, if an asset, shall be subtracted from the current assets.

276.436. AMOUNT OF BOND — DIRECTOR TO ESTABLISH BY RULE — FORMULA — MINIMUM AND MAXIMUM — ADDITIONAL BOND BECAUSE OF LOW NET WORTH OR OTHER CIRCUMSTANCES — FAILURE TO MAINTAIN, EFFECT. — 1. The total amount of the surety bond required of a dealer licensed pursuant to sections 276.401 to 276.582 shall be established by the director by rule, but in no event shall such bond be less than **[**twenty**] fifty** thousand dollars nor more than **[**three**] six** hundred thousand dollars, except as authorized by other provisions of sections 276.401 to 276.582.

2. The formula for determining the amount of bond shall be established by the director by rule and shall be computed at a rate of no less than the principal amount to the nearest one thousand dollars, equal to **[**not less than one percent and not more than five**] two** percent of the aggregate dollar amount paid by the dealer for grain purchased in the state of Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the dealer's last completed fiscal year, or, in the case of a dealer who has been engaged in business as a grain dealer for less than one year or who has not previously engaged in such business, **[**not less than one percent and not more than five**] two** percent of the estimated aggregate dollar amount to be paid by the dealer for grain purchased in the state of Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the applicant's initial fiscal year.

3. Any licensed grain dealer or applicant who has, at any time, a net worth less than the amount required by subsection 7 of section 276.421, shall be required to obtain a surety bond in the amount of one thousand dollars for each one thousand dollars or fraction thereof of the net worth deficiency. Failure to post such additional bond is grounds for refusal to license or the suspension or revocation of a license issued under sections 276.401 to 276.582. This additional bond can be in addition to or greater than or both in addition to and greater than the maximum bond as set by this section.

4. The director may, when the question arises as to a grain dealer's ability to pay for grain purchased, require a grain dealer to post an additional bond in a dollar amount deemed appropriate by the director. Such additional bond can be in addition to or greater than or both in addition to and greater than the maximum bond as set by this section. The director must furnish to the dealer, by certified mail, a written statement of the reasons for requesting additional bond and the reasons for questioning the dealer's ability to pay. Failure to post such additional bond is a ground for modification, suspension or revocation by the director of a license issued under sections 276.401 to 276.582. The determination of insufficiency of a bond and of the amount of the additional bond shall be based upon evidence presented to the director that a dealer:

(1) Is or may be unable to meet his dollar or grain obligations as they become due;

(2) Has acted or is acting in a way which might lead to the impairment of his capital;

(3) As a result of his activity, inactivity, or purchasing and pricing practices and procedures, including, but not limited to, the dealer's deferred pricing or deferred payment practices and procedures, is or may be unable to honor his grain purchase obligations arising out of his dealer business. The amount of the additional bond required under this subsection shall not exceed the amount of the dealer's current loss position. Current loss position shall be the sum of the dealer's current liabilities less current assets or the amount by which he is currently unable to meet the grain purchase obligations arising out of his dealer business.

5. One bond, cumulative as to minimum requirements, may be given where a dealer has multiple licenses; except however, that in computing the amount of the single bond the grain dealer may add together the total purchases of grain of all locations to be covered thereby and use the aggregate total purchases for the fiscal year for the purpose of computing bond. However, this single cumulative bond must be at least equal to **[**twenty**] fifty** thousand dollars per dealer license issued up to the **[**three**] six** hundred thousand dollar maximum bond amount specified in subsection 1 of this section. When a grain dealer elects to provide a single bond for a number of licensed locations, the total assets of all the licensed locations shall be subject to liabilities of each individual licensed location.

6. Failure of a grain dealer to provide and file a bond and financial statement and to keep such bond in force shall be grounds for the suspension or revocation, by the director, of a license issued under sections 276.401 to 276.582.

7. A dealer shall be required to post additional surety bond when he surpasses the estimated aggregate dollar amount to be paid for grain purchased as set forth in subsection 2 of this section. Such additional bond shall be determined by the director so as to effectively protect sellers of grain dealing with such dealer.

276.441. DEALER MAY REQUEST USE OF MINIMUM BOND, PROCEDURE. — 1. Any grain dealer who is of the opinion that his net worth is sufficient to guarantee payment for grain purchased by him may make a formal, written request to the director that he be relieved of the obligation of filing a bond in excess of the minimum bond of **[**twenty**] fifty** thousand dollars. Such request shall be accompanied by a financial statement of the applicant, prepared within four months of the date of such request and accompanied by such additional information concerning the applicant and his finances as the director may require which may include the request for submission of a financial statement audited by a public accountant.

2. If such financial statement discloses a net worth equal to at least five times the amount of the bond otherwise required by sections 276.401 to 276.582, and the director is otherwise satisfied as to the financial ability and resources of the applicant, the director may waive that portion of the required bond in excess of **[**twenty**] fifty** thousand dollars for each license issued.

411.280. WAREHOUSEMAN'S NET WORTH, REQUIREMENTS — DEFICIENCY, HOW CORRECTED. — Every warehouseman licensed under the provisions of this chapter shall have and maintain a net worth equal to the greater of ten thousand dollars or the amount which results

from multiplying the storage capacity of the warehouse by **[**fifteen**] twenty-five** cents per bushel. Capital stock, for the purpose of determining the net worth, shall not be considered a liability. Any deficiency in required net worth above the ten thousand dollar minimum requirement may be met by supplying additional bond in an amount equal to one thousand dollars for each one thousand dollars or fraction thereof of deficiency.

442.014. PRIVATE LANDOWNER PROTECTION ACT — DEFINITIONS — CONSERVATION EASEMENT PERMITTED, WHEN, VALIDITY — APPLICABILITY. — 1. This act shall be known and may be cited as the "Private Landowner Protection Act".

2. As used in this section, unless the context otherwise requires, the following terms mean:

(1) "Conservation easement", a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property;

(2) "Holder", any of the following:

(a) A governmental body empowered to hold an interest in real property under the laws of this state or the United States;

(b) A charitable corporation, charitable association, or charitable trust, the purposes, powers, or intent of which include retaining or protecting the natural, scenic, or open-space values of real property, assuring the availability of real property for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property; or

(c) An individual or other private entity;

(3) "Third-party right of enforcement", a right expressly provided in a conservation easement to enforce any of its items granted to a designated governmental body, charitable corporation, charitable association, charitable trust, individual, or any other private entity which, although eligible to be a holder, is not a holder.

3. (1) Except as otherwise provided in this section, a conservation easement may be created, conveyed, recorded, assigned, released, modified, terminated, or otherwise altered or affected in the same manner as other easements. No right or duty in favor of or against a holder and no right in favor of a person having a third-party right of enforcement arises under a conservation easement before its acceptance by the holder and a recordation of the acceptance. Except as provided in subdivision (2) of this subsection, a conservation easement is unlimited in duration unless the instrument creating it provides otherwise.

(2) An interest in real property in existence at the time a conservation easement is created is not impaired by it unless the owner of the interest is a party to the conservation easement or consents to it.

4. (1) An action affecting a conservation easement may be brought by an owner of an interest in real property burdened by the easement; a holder of the easement, a person having a third-party right of enforcement; or a person authorized by other law.

(2) This section does not affect the power of a court to modify or terminate a conservation easement in accordance with the principles of law and equity.

5. A conservation easement is valid even though:

(1) It is not appurtenant to an interest in real property;

(2) It can be or has been assigned to another holder;

(3) It is not of a character that has been recognized traditionally at common law;

(4) It imposes a negative burden that would prevent a landowner from performing acts on the land he or she would otherwise be privileged to perform absent the agreed-upon easement;

(5) It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;

(6) The benefit does not touch or concern real property; or

(7) There is no privity of estate or of contract.

6. Nothing in this section shall affect the ability of any public utility, municipal utility, joint municipal utility commission, rural electric cooperative, telephone cooperative, or public water supply district to acquire an easement, either through negotiation with an owner of an interest in real property or by condemnation, to lay or construct plants or facilities for the transmission or distribution of electricity, natural gas, telecommunications service, water, or the carriage of sewage along or across a conservation easement.

7. This section applies to any interest created after its effective date which complies with this section, whether designated as a conservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise. This section applies to any interest created before its effective date if it would have been enforceable had it been created after its effective date unless retroactive application contravenes the constitution or laws of this state or the United States. This section does not alter the terms of any interest created before its effective date, or impose any additional burden or obligation on any grantor or grantee of such interest, or on their successors or assigns. This section does not invalidate any interest, whether designated as a conservation or preservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise, that is enforceable under other laws of this state.

[263.205. MULTIFLORA ROSE A NOXIOUS WEED, EXCEPTIONS — COUNTIES MAY ESTABLISH PROGRAMS AND FUNDS TO CONTROL NOXIOUS WEEDS. — 1. The plant multiflora rose (rosa multiflora) is hereby declared to be a noxious weed; except, notwithstanding any other provision of this section, multiflora rose (rosa multiflora) shall not be considered a noxious weed when cultivated for or used as understock for cultivated roses.

2. The governing body of any county of this state may opt to establish a "County Noxious Weed Fund" for the purpose of making grants on a cost share basis for the control of any noxious weed, as the plant may be designated under this section.

3. Any county opting to establish a county noxious weed fund, shall establish a noxious weed control program. No resident or owner of land of any county shall be required to participate in a county noxious weed control program; however, any resident or landowner making application for cost share grants under this section shall participate in said program.

4. For the purpose of administering the county noxious weed fund, the county governing body shall have sole discretion of awarding cost share grants under this section.

5. For the purpose of funding the county noxious weed fund, the county governing body may appropriate county funds, and/or solicit municipality, state agency, state general revenue, and federal agency funds. All such funds shall be deposited in the county noxious weed fund to be expended for the sole purpose of controlling noxious weeds so designated under this section.

6. Any county opting to establish a county noxious weed control program under this section may make rules and regulations governing said program, and any county opting to establish a county noxious weed fund under this section shall establish a cost share ratio on an annual basis beginning with the creation of the fund.**]**

[263.230. CONTROL OF SPREAD OF BINDWEED, BY WHOM. — It shall be the duty of any person or persons, association of persons, corporations, partnerships, the state highways and transportation commission, the county commissions, the township

boards, school boards, drainage boards, the governing bodies of incorporated cities, railroad companies and other transportation companies or their authorized agents and those supervising state-owned lands to control the spread of and to eradicate by methods approved by the state department of agriculture field bindweed (convolvulus arvensis) hereby designated as a noxious and dangerous weed to agriculture.**]**

[263.232. ERADICATION AND CONTROL OF THE SPREAD OF TEASEL, KUDZU VINE, AND SPOTTED KNAPWEED. — It shall be the duty of any person or persons, association of persons, corporations, partnerships, the state highways and transportation commission, any state department, any state agency, the county commissions, the township boards, school boards, drainage boards, the governing bodies of incorporated cities, railroad companies and other transportation companies or their authorized agents and those supervising state-owned lands:

(1) To control and eradicate the spread of cut-leaved teasel (Dipsacus laciniatus) and common teasel (Dipsacus fullonum), which are hereby designated as noxious and dangerous weeds to agriculture, by methods in compliance with the manufacturer's label instructions when chemical herbicides are used for such purposes;

(2) To control the spread of kudzu vine (Pueraria lobata), which is hereby designated as a noxious and dangerous weed to agriculture, by methods in compliance and conformity with the manufacturer's label instructions when chemical herbicides are used for such purposes; and

(3) To control the spread of spotted knapweed (Centaurea stoebe ssp. micranthos, including all subspecies), which is hereby designated as a noxious and dangerous weed to agriculture, by methods in compliance and conformity with the manufacturer's label instructions when chemical herbicides are used for such purposes.**]**

[263.241. PLANT, PURPLE LOOSESTRIFE (LYTHRUM SALICARIA) DECLARED A NOXIOUS WEED — DISTRIBUTION FOR CONTROL EXPERIMENTS ONLY, PERMIT REQUIRED, VIOLATIONS, PENALTY. — The plant, purple loosestrife (Lythrum salicaria), and any hybrids thereof, is hereby designated a noxious weed. No person shall buy, sell, offer for sale, distribute or plant seeds, plants or parts of plants of purple loosestrife without a permit issued by the Missouri department of conservation. Such permits shall be issued only for experiments to control and eliminate nuisance weeds. Any person who violates the provisions of this section shall be guilty of a class A misdemeanor.**]**

[263.450. NOXIOUS WEED, DEFINED — DESIGNATION OF NOXIOUS WEED BY DIRECTOR OF DEPARTMENT OF AGRICULTURE. — As used in sections 263.450 to 263.474, the term "noxious weed" includes bindweed (Convolvulus arvensis), Johnson grass (Sorghum halepense), multiflora rose (Rosa multiflora) except when cultivated for or used as understock for cultivated roses, Canada thistle (Cirsium arvense), musk thistle (Carduus nutans L.), Scotch thistle (Onoprodum acanthium L.), purple loosestrife (Lythrum salicaria), and any other weed designated as noxious by rules and regulations promulgated by the director of the department of agriculture.**]**

[276.416. APPLICATION TO LIST DOLLAR AMOUNTS OF GRAIN PURCHASED OR TO BE PURCHASED. — In the event that the applicant has been engaged in business as a grain dealer for at least one year, the application shall set forth the aggregate dollar amount paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the last completed fiscal period of the applicant. In the event the applicant has been engaged in business for less than one year or has not previously engaged in business as a grain

dealer, the application shall set forth the estimated aggregate dollar amount to be paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the applicant's initial fiscal period.**]**

[276.446. SMALL DEALERS MAY HAVE LOWER MINIMUM BOND. — Any grain dealer whose total purchases of grain within Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during any fiscal year, do not exceed an aggregate dollar amount of four hundred thousand dollars may satisfy the bonding requirements of sections 276.401 to 276.581 by filing with the director a bond at the rate of one thousand dollars for each twenty thousand dollars or fraction thereof of the dollar amount to be purchased, with a minimum bond of ten thousand dollars required.**]**

Approved July 11, 2011

HB 464 [SCS HCS HB 464]

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.

Eliminates, combines, and revises certain provisions regarding state boards, commissions, committees, and councils

AN ACT to repeal sections 8.650, 8.900, 21.475, 21.780, 26.600, 26.603, 26.605, 26.607, 26.609, 26.611, 26.614, 32.250, 32.260, 90.101, 105.1006, 105.1010, 105.1012, 162.1000, 162.1060, 166.200, 166.201, 166.203, 166.205, 166.207, 166.209, 166.212, 166.215, 166.218, 166.220, 166.222, 166.225, 166.228, 166.231, 166.233, 166.235, 166.237, 166.240, 166.242, 190.176, 192.350, 192.352, 192.355, 192.735, 192.737, 192.739, 192.742, 192.745, 199.001, 199.003, 199.007, 199.009, 199.010, 199.029, 199.031, 199.037, 199.039, 199.041, 199.043, 199.051, 208.175, 208.195, 208.275, 208.792, 208.955, 210.101, 260.372, 260.705, 260.720, 260.725, 260.735, 286.001, 286.005, 286.200, 286.205, 286.210, 302.136, 304.028, 320.094, 320.205, 324.600, 324.603, 324.606, 324.609, 324.612, 324.615, 324.618, 324.621, 324.624, 324.627, 324.630, 324.635, 324.1100, 324.1102, 324.1103, 324.1104, 324.1106, 324.1108, 324.1110, 324.1112, 324.1114, 324.1116, 324.1118, 324.1120, 324.1122, 324.1124, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136, 324.1138, 324.1140, 324.1144, 332.021, 334.120, 344.060, 344.105, 344.108, 361.070, 361.092, 361.093, 361.094, 361.095, 361.096, 361.097, 361.098, 361.105, 362.040, 362.111, 362.325, 369.014, 369.024, 369.144, 369.159, 369.294, 369.299, 369.304, 369.309, 369.314, 369.319, 369.329, 371.060, 371.090, 371.240, 536.310, 620.638, 620.641, 620.644, 620.647, 620.650, 620.653, 630.900, 630.910, 630.915, 632.020, 660.010, and 701.302, RSMo, section 362.105 as enacted by senate committee substitute for senate bill no. 630, ninety-fifth general assembly, second regular session, and section 362.105 as enacted by senate committee substitute for house committee substitute for house bill no. 221 merged with house substitute for senate committee substitute for senate bill no. 346, ninety-second general assembly, first regular session, and to enact in lieu thereof one hundred ten new sections relating to repealing and revising certain state boards, councils, committees, and commissions, with existing penalty provisions.

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

SECTION A. ENACTING CLAUSE. — Sections 8.650, 8.900, 21.475, 21.780, 26.600, 26.603, 26.605, 26.607, 26.609, 26.611, 26.614, 32.250, 32.260, 90.101, 105.1006, 105.1010, 105.1012, 162.1000, 162.1060, 166.200, 166.201, 166.203, 166.205, 166.207, 166.209, 166.212, 166.215, 166.218, 166.220, 166.222, 166.225, 166.228, 166.231, 166.233, 166.235, 166.237, 166.240, 166.242, 190.176, 192.350, 192.352, 192.355, 192.735, 192.737, 192.739, 192.742, 192.745, 199.001, 199.003, 199.007, 199.009, 199.010, 199.029, 199.031, 199.037, 199.039, 199.041, 199.043, 199.051, 208.175, 208.195, 208.275, 208.792, 208.955, 210.101, 260.372, 260.705, 260.720, 260.725, 260.735, 286.001, 286.005, 286.200, 286.205, 286.210, 302.136, 304.028, 320.094, 320.205, 324.600, 324.603, 324.606, 324.609, 324.612, 324.615, 324.618, 324.621, 324.624, 324.627, 324.630, 324.635, 324.1100, 324.1102, 324.1103, 324.1104, 324.1106, 324.1108, 324.1110, 324.1112, 324.1114, 324.1116, 324.1118, 324.1120, 324.1122, 324.1124, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136, 324.1138, 324.1140, 324.1144, 332.021, 334.120, 344.060, 344.105, 344.108, 361.070, 361.092, 361.093, 361.094, 361.095, 361.096, 361.097, 361.098, 361.105, 362.040, 362.111, 362.325, 369.014, 369.024, 369.144, 369.159, 369.294, 369.299, 369.304, 369.309, 369.314, 369.319, 369.329, 371.060, 371.090, 371.240, 536.310, 620.638, 620.641, 620.644, 620.647, 620.650, 620.653, 630.900, 630.910, 630.915, 632.020, 660.010, and 701.302, RSMo, section 362.105 as enacted by senate committee substitute for senate bill no. 630, ninety-fifth general assembly, second regular session, and section 362.105 as enacted by senate committee substitute for house committee substitute for house bill no. 221 merged with house substitute for senate committee substitute for senate bill no. 346, ninety-second general assembly, first regular session, are repealed and one hundred ten new sections enacted in lieu thereof, to be known as sections 8.650, 8.900, 37.735, 37.740, 37.745, 90.101, 105.1006, 105.1012, 162.1000, 162.1060, 190.176, 192.735, 192.737, 192.739, 192.742, 192.745, 199.001, 199.003, 199.007, 199.009, 199.010, 199.029, 199.031, 199.037, 199.039, 199.041, 199.043, 199.051, 208.175, 208.275, 208.955, 210.101, 210.105, 260.372, 260.705, 260.720, 260.735, 286.001, 286.005, 304.028, 320.094, 320.205, 324.1100, 324.1102, 324.1103, 324.1104, 324.1106, 324.1107, 324.1108, 324.1109, 324.1110, 324.1112, 324.1114, 324.1116, 324.1118, 324.1120, 324.1122, 324.1124, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136, 324.1138, 324.1144, 332.021, 334.120, 344.060, 344.105, 344.108, 361.070, 361.092,

361.093, 361.094, 361.095, 361.096, 361.097, 361.098, 361.105, 362.040, 362.105, 362.111, 362.325, 369.014, 369.024, 369.144, 369.159, 369.294, 369.299, 369.314, 369.329, 371.060, 371.090, 371.240, 536.310, 620.580, 620.582, 620.584, 620.586, 620.588, 620.590, 620.592, 620.638, 620.641, 620.644, 620.647, 620.650, 620.653, 632.020, and 660.010, to read as follows:

8.650. DEVIATIONS FROM STANDARDS, WHEN PERMITTED. — 1. Deviations from the standards set forth in sections 8.620 and 8.622 may be permitted where conformance to such standards is impractical and where the method, material, and dimension used in lieu thereof does not create a hazard.

2. Permission to deviate from the standards set forth in sections 8.620 and 8.622 may be granted only by the commissioner of administration after consulting with the governor's **[**committee on employment of the handicapped**] council on disability** established in section **[**286.200**] 37.735**. Application to deviate from the standards may be submitted by the owner of the building only. Applications shall be submitted in such written forms as the commissioner may require.

3. The commissioner shall maintain a codified listing of all applications received. The listing shall indicate the action taken by the commissioner on each application.

8.900. MEMORIAL FOR WORKERS KILLED OR DISABLED ON THE JOB — FUND ESTABLISHED, INVESTMENT, FUND NOT TO LAPSE INTO GENERAL REVENUE. — 1. A permanent memorial for workers who were killed on the job in Missouri or who suffered an on-the-job injury that resulted in a permanent disability shall be established and located on the grounds of the state capitol. **[**The memorial shall be of a design selected by a competition organized by the "Workers Memorial Committee" which is hereby created. The workers memorial committee shall be composed of the members of the board of public buildings, or their designees, two members of the house of representatives, one from each political party, selected by the speaker of the house, and two members of the senate, one from each political party, selected by the president pro tem of the senate. The members of the committee shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the committee.**]**

2. There is hereby established in the state treasury the "Workers Memorial Fund". Gifts, grants and devises may be deposited in the workers memorial fund. Notwithstanding the provisions of section 33.080, moneys in the fund shall not revert to general revenue. The state treasurer shall invest the moneys from the fund in the same manner as other state funds are invested. Interest accruing to the fund shall be deposited in the fund and shall not be transferred to the general revenue fund.

37.735. COUNCIL ASSIGNED TO OFFICE OF ADMINISTRATION, MEMBERS, CHAIRPERSON — EXECUTIVE DIRECTOR, FUNDING — APPOINTMENT OF MEMBERS, TERMS, QUALIFICATIONS — MEETINGS. — 1. The "Governor's Council on Disability" is hereby assigned to the office of administration.

2. The council shall consist of a chairperson, twenty members, and an executive director.

3. The chairperson shall be appointed by the governor with the advice and consent of the senate. The members of the council shall be appointed by the governor. Recruitment and appointment of members to the council shall provide for representation of various ethnic, age, gender, and physical and mental disability groups.

4. The funds necessary for the executive director and such other personnel as necessary shall be appropriated through the office of administration. The executive director shall serve under the supervision of the committee chairman. The executive director shall be exempted from the state merit system.

5. All members shall be appointed for four-year terms. Vacancies occurring in the membership of the council for any reason shall be filled by appointment by the governor for the unexpired term. Upon expiration of their terms, members of the council shall continue to hold office until the appointment and qualification of their successors. No person shall be appointed for more than two consecutive terms, except that a person appointed to fill a vacancy may serve for two additional successive terms. The governor may remove a member for cause.

6. Members of the council shall be chosen to meet the following criteria:

(1) The majority of the council shall be comprised of people with disabilities, representing the various disability groups. The remaining positions shall be filled by family members of people with disabilities, persons who represent other disability-related groups, and other advocates. A person considered to have a disability shall meet the federal definition of disability as defined by P.L. 101-336;

(2) The council shall include at least one member from each congressional district;

(3) Members of the council shall be knowledgeable about disability-related issues and have demonstrated a commitment to full participation of people with disabilities in all aspects of community life.

7. The chairperson of the council shall serve without compensation but shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of the duties as chairperson of the council on disability. The members of the council shall serve without compensation but may be reimbursed for their actual and necessary expenses incurred in attending all meetings provided for by sections 37.735 to 37.745.

8. The council shall meet at least once each calendar quarter to conduct its business. The executive director shall give notice to each member of the time and place of each meeting of the council at least ten days before the scheduled date of the meeting, and notice of any special meeting shall state the specific matters to be considered in the special meeting which is not a regular quarterly meeting.

9. The chairperson, with the advice and consent of the council, shall appoint an executive director who shall serve as a nonvoting member and executive officer of the council. The executive director shall serve under the supervision of the chairperson of the council. The executive director shall be a person who is knowledgeable about disability-related issues and has demonstrated a commitment to full participation of people with disabilities in all aspects of community life.

10. The director of each state department shall designate at least one employee who shall act as a liaison with the council.

37.740. DUTIES OF THE COUNCIL.— The governor's council on disability shall:

(1) Act in an advisory capacity to all state agencies and have direct input to all divisions of the office of administration on policies and practices which impact people with disabilities. Input shall include policies and practices affecting personnel, purchasing, design and construction of new facilities, facilities management, budget and planning and general services. In the administration of its duties, the governor's council on disability in cooperation with the office of administration shall offer technical assistance to help all departments, divisions and branches of state government comply with applicable state and federal law regarding persons with disabilities;

(2) Work and cooperate with other state commissions, councils or committees pertaining to disabilities and other national, state and local entities to create public policies and encourage system changes which eliminate barriers to people with disabilities;

(3) Advocate for public policies and practices which:

(a) Promote employment of people with disabilities;

(b) Expand opportunities in all aspects of life; and

(c) Promote awareness of and compliance with various federal, state and local laws dealing with disabilities;

(4) Gather input from disability-related organizations and the public on disability-related issues and report the results of this information in council reports to the governor;

(5) Accept grants, private gifts, and bequests, to be used to achieve the purposes of sections 37.735 to 37.745;

(6) Promulgate those bylaws necessary for the efficient operation of the council;

(7) Prepare an annual report to be presented to the governor not later than January first of each year.

37.745. FUNDING SOURCES. — The governor's council on disability may receive funds and property by gift, devise, bequest or otherwise and may solicit funds to be used in carrying out the purposes of sections 37.735 to 37.745.

90.101. NUMBERS OF COMMISSIONERS — VACANCY IN BOARD OF COMMISSIONERS, HOW FILLED. — 1. Nothwithstanding any law to the contrary, the board of commissioners of Tower Grove Park shall have the authority to adjust the size of its membership, provided that any such adjustment shall be approved by a majority vote of the board members.

2. Notwithstanding any law to the contrary, in case of any vacancy occurring in the membership of the board of commissioners of Tower Grove Park from death, resignation, or disqualification to act, the vacancy shall be filled by appointment from the remaining members of the board, or a majority of them, for the balance of the term then vacant, and all vacancies caused by the expiration of the term of office shall be filled by appointment from the judges of the supreme court of the state of Missouri, or a majority of them or if said judges are unable or unwilling to so act, which shall be presumed by their failure to act within thirty days following delivery to the court of a slate of appointees, by the majority vote of the remaining board members.

105.1006. FUNDS TO BE DEPOSITED IN MISSOURI STATE EMPLOYEES VOLUNTARY LIFE INSURANCE FUND — LAPSE INTO GENERAL REVENUE PROHIBITED. — All funds withheld from employees of the state of Missouri pursuant to section 105.1005 shall be transferred to the director of revenue for deposit in the state treasury to the credit of the "Missouri State Employees Voluntary Life Insurance Fund", which is hereby created. The Missouri state employees voluntary life insurance fund shall be administered by the **[**Missouri state employees voluntary life insurance commission**] commissioner of administration**, and the moneys in the fund shall be used solely **[**by the commission**]** as provided in sections 105.1000 to 105.1020, including the contracts entered into with employees under section 105.1005. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the Missouri state employees voluntary life insurance fund at the end of any biennium shall not be transferred to the credit of the general revenue fund. The **[**commission**] commissioner** shall approve any voluntary life insurance agreement entered into by the state and shall oversee the orderly administration of the fund in compliance with sections 105.1000 to 105.1020.

105.1012. COMMISSION'S DUTIES TO ESTABLISH LIFE INSURANCE PLAN — WITH PAYROLL DEDUCTION BY PARTICIPATING EMPLOYEES — PLAN TO BE BASED ON COMPETITIVE BIDDING — BID TO INCLUDE COST OF ADMINISTRATION. — 1. **[**Subject to the approval of the Missouri state employees voluntary life insurance commission,**]** The office of administration shall establish and administer a voluntary life insurance plan for the employees of the state of Missouri. Participation in such plan shall be by a specific written agreement between such employees and the state which shall provide for the payroll deduction of such

amount of compensation as requested by the employee. Participating employees shall authorize that such deferrals be made from their wages for the purpose of participation in such plan.

2. Funds held for the state **[**by the Missouri state employees voluntary life insurance commission**]** pursuant to a written payroll deduction agreement between the state and participating employees may be invested in such life insurance contracts as are approved by the **[**commission**] commissioner of administration**. All such insurance plans or policies to be offered pursuant to this plan shall have been reviewed and selected **[**by the commission**]** based on a competitive bidding process as established by such specifications and considerations as are deemed appropriate **[**by the commission**]**. The bid shall include the costs of administration incurred by the office of administration in implementing sections 105.1000 to 105.1020, which shall be borne by the successful bidder.

162.1000. INTERAGENCY COUNCIL ON TRANSITION CREATED, DEFINITIONS, MEMBERS, QUALIFICATIONS, CHAIRPERSON HOW SELECTED — MEETINGS, POWERS AND DUTIES — ANNUAL REPORT, CONTENT. — 1. As used in this section, the following terms mean:

(1) "Transition", a coordinated set of activities for a student, designed within an outcome oriented process, which promotes movement to integrated employment, including supported employment, postsecondary education, vocational training, continuing and adult education services, independent living and community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include, but not be limited to, instruction, community experiences, the development of employment and other postschool adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation;

(2) "Youth with disabilities", any person who is found eligible for special education as defined in federal Public Law 101-476, the Individuals with Disabilities Education Act.

2. The individualized education program required for each student enrolled in special education shall include a statement of the needed transition services for students beginning not later than age sixteen and annually thereafter, and shall include, when appropriate, a statement of interagency responsibility or linkages before the student leaves the school setting.

3. The "Missouri Interagency Council on Transition" is hereby created within the division of special education, and shall be composed of the commissioner of the department of elementary and secondary education, the assistant commissioners of the division of vocational rehabilitation, the division of special education, and the division of vocational and adult education, the director of the department of health and senior services, the director of the division of maternal, child and family health, the director of the department of mental health, the director of the department of social services, the president of the Missouri planning council for developmental disabilities, the chairman of the Missouri **[**head**] brain** injury advisory council, the president of the advisory council for comprehensive psychiatric services, the president of the Missouri Association for Rehabilitation Facilities, or their designees, a representative of the governor's **[**committee on employment of persons with disabilities**] council on disability**, and seven professionals and consumer representatives with no less than three parents or primary consumers, to be appointed by the governor from names submitted by any interested agency or organization serving individuals with disabilities. At the first meeting a chair shall be selected from the members to serve a term of two years. The council shall meet at least quarterly, and at such other times at the call of the chair.

4. The Missouri interagency council on transition shall:

(1) Gather and coordinate data on transition services for secondary age youth with disabilities;

(2) Provide information, consultation, and technical assistance to state and local agencies and school districts involved in the delivery of services to youth with disabilities who are in transition from school to work or postsecondary transition programs;

(3) Assist state and local agencies and school districts in establishing interagency agreements to assure the necessary transition from school to work or postsecondary training programs;

(4) Conduct an annual statewide assessment of transition needs and postsecondary school outcomes from information supplied by local education agencies and local interagency transition committees;

(5) Assist regions and local areas in planning interagency in-service training to develop and improve transition services.

5. Members of the Missouri interagency council on transition shall receive no compensation for their services while serving on the council; however, members may receive reimbursement for their actual and necessary expenses incurred in the performance of their duties.

6. Beginning on January 1, 1995, and on or before January first of each successive year, the council shall make a written report to the governor and to the general assembly of its activities for the preceding fiscal year. The council's annual report shall include recommendations for administrative and legislative policies and programs to enhance the delivery of transition services and supports.

162.1060. TRANSFER CORPORATION, BOARD, POWERS AND DUTIES, FUNDING — TERMINATION OF CORPORATION, FUNDS TO LAPSE TO GENERAL REVENUE — REGIONAL ATTENDANCE ZONES. — 1. There is hereby established a "Metropolitan Schools Achieving Value in Transfer Corporation", which shall be a public body corporate, for the purpose of implementing an urban voluntary school transfer program within a program area which shall include a city not within a county and any school district located in whole or in part in a county with a population in excess of nine hundred thousand persons which district chooses to participate. The corporation shall be governed by a board of directors consisting of one representative from each school district that participates in the urban voluntary school transfer program selected by the governing body of each such district. The vote of each member of the board shall be weighted proportionately to the percentage of the total of transfer students who attend school in the member's district.

2. (1) The corporation's board of directors shall design and operate an urban voluntary school transfer program for all participating districts. The board shall make provision for transportation of all the students and for payment to school districts for the education of such students. Acceptance of students into the program shall be determined by policies enacted by the corporation's board of directors, provided that first preference for acceptance of students shall be granted to students currently attending a district other than the district of residence pursuant to a voluntary transfer program established pursuant to federal desegregation order, decree or agreement. All provisions of this section shall be subject to a settlement incorporated into a final judgment, provided that the financial provisions of this section shall not be superseded by such settlement.

(2) Each district, other than a metropolitan school district, participating in an urban voluntary school transfer program shall place before voters in the district a proposal to continue participation in the urban voluntary school transfer program at the April election during the sixth year of operation of the program. Unless a majority of district voters voting thereon votes to continue participation in the program, each district, other than a metropolitan school district, shall file a plan, no later than the end of the seventh year of the operation of the program, for phase-out of the district's participation in the program, and such plan shall be provided to the state board of education, the transitional school district and the board of directors of the corporation. Each such plan shall provide for elimination of transfers to the district pursuant to this section no later than the following schedule:

(a) The ninth year of the program for grades one through three;

(b) The tenth year of the program for grades four through six;

(c) The eleventh year of the program for grades seven through nine; and

(d) The twelfth year of the program for grades ten through twelve.

3. (1) Other provisions of law to the contrary notwithstanding, each student participating in the program shall be considered an eligible pupil of the district of residence for the purpose of distributing state aid, except that students attending school in a metropolitan school district in a program established pursuant to this section shall be considered eligible pupils of the district attended, and provided that the department shall determine the increased state aid eligibility created by including pupils attending school in a program established pursuant to this section as eligible pupils of the district of residence and shall distribute the full amount of such state aid to the metropolitan schools achieving value in transfer corporation and shall not distribute state aid on the basis of such pupils to the district of residence.

(2) For each student participating in the program, the corporation shall receive the total of all state and federal aid that would otherwise be paid to the student's district of residence, including, but not limited to, state aid provided pursuant to section 148.360, section 149.015, and sections 163.031 and 163.087. The corporation shall pay a school district that receives a nonresident student from the funds of the corporation in accordance with the provisions of this section and agreements between the corporation and the participating school districts.

4. (1) In each of the first two fiscal years, the corporation shall also receive a payment of twenty-five million dollars.

(2) For the third year of operation and thereafter, the corporation shall receive transportation state aid, for each student that participates in the program, which shall be in the same amount and on the same basis as would be received by the student's district of residence if the student were attending a school in the attendance zone in the student's district of residence, provided that such reimbursement shall not exceed one hundred fifty-five percent of the statewide average per pupil cost for transportation for the second preceding school year.

(3) Funds received by the corporation pursuant to this subsection may be used for any purpose and need not be expended in the year received.

5. The corporation created herein shall have all powers of a public body corporate, except that it shall have no paid employees. The corporation, by contract with any public entity, school district, or private entity, may retain the services of a fiscal agent, make provisions for accounting, transportation management, or other assistance that the corporation may need to carry out its functions, except that no contractor or employee of any contractor acting in a policy-making function shall have ever have been a contractor or employee of the voluntary interdistrict coordinating council or any other program established by the federal district court; except that this restriction shall not apply to transportation contractors or their employees. When a school district located in whole or in part in a county with a population in excess of nine hundred thousand persons ceases to participate in the urban public school transfer program, its representative shall be removed from the corporation's board of directors. When none of the students who reside in a school district in a city not within a county opt to participate in the program, the school district's representative shall be removed from the board of directors. When all of the school districts have ended their participation in the program, in accordance with this subsection, the corporation's operations shall cease, and any funds of the corporation remaining shall be paid to the state of Missouri to the credit of the general revenue fund, except such amounts as the commissioner of education shall determine should be paid to particular school districts under the regulations applicable to federal programs or returned to the federal government.

6. All funds received by the corporation shall become funds of the corporation and paid for the purposes set forth in this section and in accordance with agreements entered into between the corporation and participating school districts and other entities, provided that funds received for particular purposes, under federal or state categorical programs benefiting individual students, shall be paid to the district or entity providing services to the students entitled to such services. The proportionate share of federal and state resources generated by students with disabilities, or the staff serving them, shall be paid to the district where the child is attending school, unless the

district of residence is required by law to provide such services to the individual students, except that a special school district containing the district where the child is attending school shall be paid for all unreimbursed expenses for special education services provided to students with disabilities. Funds held by the corporation at the close of a fiscal year may be carried over and utilized by the corporation in subsequent fiscal years for the purposes set forth in this section.

7. The board of directors may establish regional attendance zones which map the regions of a district in a city not within a county to corresponding recipient districts within the remainder of the program area. In establishing the regional attendance zones, the board of directors may solicit comments and suggestions from residents of the program area and may adopt one or more regional attendance zones previously established in the program area pursuant to a federal court desegregation order, decree or agreement.

[8. No later than four years following the date an urban public school transfer program is begun pursuant to this section in a program area, the senate and the house of representatives shall establish a "Joint Committee on Urban Voluntary School Transfer Programs", composed of five members of the senate, appointed by the president pro tem of the senate, and five members of the house of representatives, appointed by the speaker of the house. Not more than three members appointed by the president pro tem and not more than three members appointed by the speaker of the house shall be from the same political party.

9. The joint committee may meet as necessary and hold hearings and conduct investigations as it deems advisable. No later than five years following the date an urban voluntary school transfer program is begun pursuant to this section in a program area, the committee shall review and monitor the status of any urban voluntary school transfer program established pursuant to this section and make any recommendations the committee deems necessary to the general assembly regarding such program or programs, which may include proposed changes to the program and recommendations regarding the continuation of the program. The members shall receive no additional compensation, other than reimbursement for their actual and necessary expenses incurred in the performance of their duties. The staff of the committee on legislative research, house research, and senate research shall provide necessary clerical, research, fiscal and legal services to the committee, as the committee may request.

10. No later than nine years following the date an urban public school transfer program is begun pursuant to this section in a program area, the joint committee on urban voluntary school transfer programs shall be reestablished in the form specified in subsection 8 of this section and pursuant to the same provisions for reimbursement of expenses and staff support as specified in subsection 9 of this section. No later than ten years following the date an urban voluntary school transfer program is begun pursuant to this section in a program area, the committee shall review and monitor the status of any urban voluntary school transfer program established pursuant to this section and make any recommendations the committee deems necessary to the general assembly regarding such program or programs.**]**

190.176. DATA COLLECTION SYSTEM. — 1. The department shall develop and administer a uniform data collection system on all ambulance runs and injured patients, pursuant to rules promulgated by the department for the purpose of injury etiology, patient care outcome, injury and disease prevention and research purposes. The department shall not require disclosure by hospitals of data elements pursuant to this section unless those data elements are required by a federal agency or were submitted to the department as of January 1, 1998, pursuant to:

(1) Departmental regulation of trauma centers; or

(2) The Missouri **[**head**]** **brain** and spinal cord injury registry established by sections 192.735 to 192.745; or

(3) Abstracts of inpatient hospital data; or

(4) If such data elements are requested by a lawful subpoena or subpoena duces tecum.

2. All information and documents in any civil action, otherwise discoverable, may be obtained from any person or entity providing information pursuant to the provisions of sections 190.001 to 190.245.

192.735. DEFINITIONS. — As used in sections 192.735 to 192.745, unless the context clearly indicates otherwise, the following terms shall mean:

(1) **[**"Department", the department of health and senior services;

(2) "Head**] "Brain** injury" or "traumatic **[**head**] brain** injury", a sudden insult or damage to the brain or its coverings, not of a degenerative nature. Such insult or damage may produce an altered state of consciousness and may result in a decrease of one or more of the following: mental, cognitive, behavioral or physical functioning resulting in partial or total disability. Cerebral vascular accidents, aneurisms and congenital deficits are specifically excluded from this definition;

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

(3) "Spinal cord injury", an injury that occurs as a result of trauma, which may involve spinal vertebral fracture, and where the injured person suffers two or more of the following effects either immediately or within forty-eight hours of injury:

(a) Effects on the sensory system including numbness, tingling or loss of sensation in the body or in one or more extremities;

(b) Effects on the motor system including weakness or paralysis in one or more extremities;

(c) Effects on the visceral system including bowel or bladder dysfunction or hypotension.

192.737. INFORMATION REPORTING SYSTEM ESTABLISHED — PURPOSE — REPORTS REQUIRED, TO BE FILED BY WHOM, CONTENTS, FORM. — 1. The department of health and senior services shall establish and maintain an information registry and reporting system for the purpose of data collection and needs assessment of **[**head**] brain** and spinal cord injured persons in this state.

2. Reports of traumatic **[**head**] brain** and spinal cord injuries shall be filed with the department by a treating physician or his designee within seven days of identification. The attending physician of any patient with traumatic **[**head**] brain** or spinal cord injury who is in the hospital shall provide in writing to the chief administrative officer the information required to be reported by this section. The chief administrative officer of the hospital shall then have the duty to submit the required reports.

3. Reporting forms and the manner in which the information is to be reported shall be provided by the department. Such reports shall include, but shall not be limited to, the following information: name, age, and residence of the injured person, the date and cause of the injury, the initial diagnosis and such other information as required by the department.

192.739. CONFIDENTIALITY OF REPORTS — RELEASE OF REPORTS, REQUIREMENTS. — 1. All reports and records made pursuant to sections 192.735 to 192.744 and maintained by the department and other appropriate persons, officials and institutions pursuant to sections 192.735 to 192.744 shall be confidential. Information shall not be made available to any individual or institution except to:

(1) Appropriate staff of the department;

(2) Any person engaged in a bona fide research project, with the permission of the director of the department, except that no information identifying the subjects of the reports or the reporters shall be made available to researchers unless the department requests and receives consent for such release pursuant to the provisions of this section;

(3) The Missouri **[**head**] brain** injury advisory council, except that no information identifying the subjects of the reports or the reporters shall be made available to the council unless consent for release is requested and received pursuant to the provisions of this section.

Only information pertaining to **[**head**]** **brain** injuries as defined in section 192.735 shall be released to the council.

2. The department shall not reveal the identity of a patient, a reporting physician or hospital, except that the identity of the patient may be released upon written consent of the patient, parent or guardian, the identity of the physician may be released upon written consent of the physician, and the identity of the hospital may be released upon written consent of the hospital.

3. The department shall request consent for release from a patient, a reporting physician or hospital only upon a showing by the applicant for such release that obtaining the identities of certain patients, physicians or hospitals is necessary for his research.

4. The department shall at least annually compile a report of the data accumulated through the reporting system established under section 192.737 and shall submit such data relating to **[**head**]** **brain** injuries as defined in section 192.735 and in accordance with confidentiality restrictions established pursuant to sections 192.735 to 192.744 to the director of the Missouri **[**head**]** **brain** injury advisory council.

192.742. PROMULGATION OF RULES, AUTHORITY FOR, CONSULTATION WITH COUNCIL. — The department, in consultation with the Missouri **[**head**]** **brain** injury advisory council, shall promulgate rules and regulations necessary to carry out the provisions of sections 192.735 to 192.744, pursuant to the provisions of section 192.006 and chapter 536.

192.745. ADVISORY COUNCIL ESTABLISHED — MEMBERS — TERMS — APPOINTMENT — MEETINGS — EXPENSES — CHAIRMAN — DUTIES. — 1. The "Missouri **[**Head**]** **Brain** Injury Advisory Council" is hereby established **[**as created by executive order of the governor on March 5, 1985**]** **in the department of health and senior services**. **[**The council shall consist of twenty-five members.**]** The members of the council that are serving on **[**August 13, 1986**]** **February 2, 2005**, shall continue **[**serving on the following basis: the two members of the council who are members of the house of representatives and appointed by the speaker of the house of representatives shall serve for the remainder of their terms; the two members of the council who are members of the senate appointed by the president pro tempore of the senate shall serve for the remainder of their terms; and the remaining twenty-one members shall determine by lot which seven are to have a one-year term, which seven are to have a two-year term, and which seven are to have a three-year term**]** **to fulfill their current terms. Through attrition, the council shall decrease from the present twenty-five members to fifteen members**. Thereafter, the successors to each of these **[**twenty-one**]** members shall serve a three-year term and until the member's successor is appointed by the governor with the advice and consent of the senate. **[**In addition, two members who are members of the house of representatives shall be appointed by the speaker of the house and two members who are members of the senate shall be appointed by the president pro tempore of the senate.**]** The members appointed by the governor shall **[**represent**]** **include: four** people with **[**head**]** **brain** injuries**[**,**]** **or** relatives of persons with **[**head**]** **brain** injuries, **[**proprietary schools as defined in section 173.600,**]** **and eleven other individuals from** professional groups, health institutions, **[**or**]** **community groups, and** private industry **[**and state agencies which administer programs regarding mental health, education, public health, public safety, insurance, and Medicaid. The appointment of individuals representing state agencies shall be conditioned on their continued employment with their respective agencies**]**. **In addition to the fifteen council members, individuals representing state agencies with services that impact brain injury survivors and their families shall participate on the council in an ex officio nonvoting capacity. These individuals shall be appointed by the respective agency.**

2. The Missouri **[**head**]** **brain** injury advisory council is assigned to the **[**division of general services in the office of administration**]** **department of health and senior services**. The **[**office of administration**]** **department** shall submit estimates of requirements for appropriations on behalf of the council for the necessary staff and expenses to carry out the duties and

responsibilities assigned by the council. **[**Such staff shall consist of a director and other support staff.**]**

3. Meetings **of the full council** shall be held at least **[**every ninety days**] four times a year** or at the call of the council chairperson, who shall be elected by the council. **Subcommittees may meet on an as needed basis.**

4. **[**Each member shall, subject to appropriations, be reimbursed for reasonable and necessary expenses actually incurred in the performance of the member's official duties.**] Members of the council shall not receive any compensation for their services, but they shall, subject to appropriations, be reimbursed for actual and necessary expenses incurred in the performance of their duties from funds appropriated for this purpose.**

5. The council shall adopt written procedures to govern its activities. **[**Staff and consultants shall be provided for the council from appropriations requested by the commissioner of the office of administration for such purpose.**]**

6. The council**, under the direction of the department,** shall make recommendations to the **[**governor**] department director** for developing and administering a state plan to provide services for **[**head**] brain** injured persons.

7. No member of the council may participate in or seek to influence a decision or vote of the council if the member would be directly involved with the matter or if the member would derive income from it. A violation of the prohibition contained herein shall be grounds for a person to be removed as a member of the council by the **[**governor**] department director**.

8. The council shall be advisory and shall:

(1) Promote meetings and programs for the discussion of reducing the debilitating effects of **[**head**] brain** injuries and disseminate information in cooperation with any other department, agency or entity on the prevention, evaluation, care, treatment and rehabilitation of persons affected by **[**head**] brain** injuries;

(2) Study and review current prevention, evaluation, care, treatment and rehabilitation technologies and recommend appropriate preparation, training, retraining and distribution of manpower and resources in the provision of services to **[**head-injured**] brain-injured** persons through private and public residential facilities, day programs and other specialized services;

(3) Recommend **[**what**]** specific methods, means and procedures **[**should be adopted**]** to improve and upgrade the state's service delivery system for **[**head-injured**] brain-injured** citizens of this state;

(4) Participate in developing and disseminating criteria and standards which may be required for future funding or licensing of facilities, day programs and other specialized services for **[**head-injured**] brain-injured** persons in this state;

(5) Report annually to the **[**commissioner of administration, the governor, and the general assembly**] department director** on its activities, and on the results of its studies and the recommendations of the council.

9. The **[**office of administration**] department** may accept on behalf of the council federal funds, gifts and donations from individuals, private organizations and foundations, and any other funds that may become available.

199.001. DEFINITIONS. — As used in sections 199.001 to 199.055, the following terms mean:

(1) **[**"Division", the division of injury prevention, head injury rehabilitation and local health services of the department of health and senior services;

(2) "Head**] "Brain** injury"**,** includes **[**head**] brain** injury**[**,**] and** traumatic **[**head**] brain** injury**[**, and spinal cord injury**]** as defined in section 192.735;

(2) "Department", the department of health and senior services' adult brain injury program;

(3) "Injury or trauma", any unintentional or intentional damage to the body resulting from acute exposure to thermal, mechanical, electrical, or chemical energy or from the absence of such essentials as heat or oxygen;

(4) "Rehabilitation", a comprehensive series of interventions for physical, medical, cognitive and psychological disabilities designed to restore a person to his maximum functional potential.

199.003. INJURY PREVENTION, BRAIN INJURY REHABILITATION AND LOCAL HEALTH SERVICES, DEPARTMENT RESPONSIBLE — POWERS — DUTIES. — 1. **[**The "Division of Injury Prevention, Head Injury Rehabilitation and Local Health Services" is hereby created and shall be a division of the department of health and senior services.**]** The **[**division**] department** shall have the responsibility**, subject to appropriations,** of ensuring that injury prevention and **[**head**] brain** injury rehabilitation evaluation, **[**case management**] service coordination**, treatment, rehabilitation, and community support services are accessible, wherever possible. **[**The division shall have and exercise supervision of division rehabilitation facilities, residential programs and specialized services operated by the division and oversight of facilities, programs and services funded by the division. The division may also plan for prevention, treatment, rehabilitation and care, including hospice, for persons with other diseases as determined by the general assembly by appropriations. The division shall also have responsibilities for the support, development, and coordination of local health services.**]**

2. The powers, functions and duties of the **[**division**] department** shall include the following:

(1) **[**Provision of funds for**]** Planning **and implementing,** in cooperation with the Missouri **[**head**] brain** injury advisory council **[**and implementation of**] ,** accessible programs to **[**rehabilitate and care for**] promote rehabilitation and community reintegration of** persons with **[**head injuries, injury prevention and research**] brain injuries**;

(2) Provision of technical assistance and training to community-based programs **[**and assistance and cooperation to programs of political subdivisions designed to assist in planning and implementing quality services**] assisting persons with brain injuries**;

(3) Assurance of **[**program**]** quality **[**in compliance with such appropriate standards for residential facilities, day programs, and specialized programs as may be established by the division**] for brain injury services funded by the department**;

(4) Sponsorship and encouragement of research into the causes, effects, prevention, treatment and rehabilitation of injuries and appropriateness and cost and benefit effectiveness of **[**head**] brain** injury rehabilitation, residential programs and specialized services;

(5) Provision of public information relating to injury prevention and **[**head**] brain** injury treatment and rehabilitation;

(6) Cooperation with nonstate governmental agencies and **[**the**]** private sector **[**in establishing, conducting, integrating and coordinating**]** programs and projects relating to injury prevention and **[**head**] brain** injury treatment and rehabilitation;

(7) **[**Review and oversight of those portions of the department's annual budget which are directed for injury prevention and head injury services;

(8) Encouragement of the utilization, support, assistance and dedication of volunteers to assist persons affected by head injuries to be accepted and integrated into normal community activities;

(9) Support, development, and coordination of local health services, which shall include but shall not be limited to:

(a) Professional resources and staff development;

(b) Services assessment and coordination;

(c) Standards development, implementation and quality assurance;

(d) Provision of basic public health services in areas not served by local public health agencies;

(e) Fiscal resources and management;

(f) Technical assistance; and

(g) Assistance with public health problems, emergencies and conditions**] Receiving federal grants and aids for injury prevention and for persons with brain injuries and brain injury rehabilitation under the terms of the grants and aids and administering or paying them out. The director shall approve such applications for federal assistance administered through the department as may be considered advisable in consultation with the Missouri brain injury advisory council;**

(8) Promulgating rules under the provisions of this section, as necessary to prescribe policies or standards which affect charging and funding of adult brain injury rehabilitation services. The rules applicable to each program or service operated or funded by the department shall be available for public inspection and review at such program or service. The rules and policies shall be compatible with and appropriate to the program mission, population served, size, type of service, and other reasonable classifications;

(9) Promulgating reasonable rules relative to the implementation of participant rights described in sections 199.001 to 199.051;

(10) Promulgating rules setting forth a reasonable standard means test which shall be applied to all programs and services funded by the department in determining eligibility for such services.

3. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, 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, 2011, shall be invalid and void.

199.007. BRAIN INJURY ADVISORY COUNCIL, ADVISORY BODY TO DEPARTMENT. — The Missouri **[**head**] brain** injury advisory council, created by section 192.745, shall act as the advisory body to the **[**division and the division**] department and department** director. Any power or function of the **[**division**] department** requiring planning activities shall be undertaken with the direct input and cooperation of the advisory council. The **[**division**] department** shall not undertake or duplicate any activity or function of the council under the provisions of section 192.745.

199.009. CONTRACTS WITH PUBLIC OR PRIVATE VENDORS, ALLOWED — BRAIN INJURY, DEPARTMENT TO SECURE COMPREHENSIVE PROGRAM, CONTENTS. — 1. The **[**division**] department** may provide injury prevention, and **[**head**] brain** injury evaluation, care, treatment, rehabilitation and such related services directly or through contracts from private and public vendors in this state, the quality of the services being equal, appropriate and consistent with professional advice in the least restrictive environment and as close to an individual's home community as possible, with funds appropriated for this purpose.

2. If it is determined through a comprehensive evaluation that a person **[**is suffering from a head**] has a traumatic brain** injury so as to require the coordination of provision of services, including other state governmental agencies, nongovernmental and the private sector, and if such person, such person's parent, if the person is a minor, or legal guardian, so requests, the **[**division**] department** shall, within the limits of available resources and subject to relevant federal and state laws, secure a comprehensive program of any necessary services for such person. Such services may include, but need not be limited to, the following:

(1) Assessment and evaluation;

(2) **[**Case management**] Service coordination**;

(3) Counseling;
(4) Respite care;
(5) Recreation;
(6) Rehabilitation;
(7) Cognitive retraining;
(8) Prevocational rehabilitation;
(9) Residential care;
(10) Homemaker services;
(11) Day activity programs;
(12) Supported living;
(13) Referral to appropriate services;
(14) Transportation;
(15) Supported work**, if provided by the department, shall be directed toward preparation for education or vocational achievement, independent living, and community participation. Long-term needs shall be identified and efforts made to link participants with appropriate resources**.

3. In securing the comprehensive program of services, the **[**division**]** **department** shall involve the **[**patient**]** **participant**, his **or her** family or his **or her** legal guardian in decisions affecting his **or her** care, rehabilitation, services or referral. The quality of the services being equal, appropriate and consistent with professional advice, services shall be offered in the least restrictive environment and as close to an individual's home community as possible.

4. In accordance with state and federal law, no service or program operated or funded by the department shall deny admission or other services to any person because of the person's race, sex, creed, marital status, national origin, handicap, or age.

199.010. MISSOURI REHABILITATION CENTER, UNIVERSITY OF MISSOURI TO OPERATE, DUTIES FOR BRAIN INJURY — DEPARTMENT TO PROVIDE REHABILITATION AND TUBERCULOSIS TREATMENT. — The curators of the University of Missouri shall provide for the care of persons needing **[**head**]** **brain** injury and other rehabilitation subject to appropriation by the general assembly. The department of health and senior services shall provide for the treatment and commitment of persons having tuberculosis subject to appropriation by the general assembly.

199.029. RULES AND REGULATIONS, GENERAL OPERATING RULES, DEPARTMENT TO PROMULGATE — PROCEDURE — EXCEPTION. — 1. The **[**division**]** **department** shall promulgate rules under the provisions of this section and chapter 536 as necessary to prescribe policies or standards which affect charging and funding of residential care rehabilitation programs and specialized services for persons with **[**head**]** **brain** injuries available to the public. The rules applicable to each facility, program or service operated or funded by the **[**division**]** **department** shall be available for public inspection and review at such facility, program or service. These rules shall not apply to facilities, programs or services operated or provided by curators of the University of Missouri.

2. The rules, operating regulations and facility policies shall be compatible with and appropriate to the facility or program mission, population served, size, type of service and other reasonable classifications. 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.

199.031. FEDERAL GRANTS, DEPARTMENT MAY RECEIVE, PURPOSES — APPLICATION. — 1. The **[**division**]** **department** may receive federal grants and aids for injury prevention and for persons with **[**head**]** **brain** injuries and **[**head**]** **brain** injury rehabilitation under the terms of the grants and aids and administer or pay them out subject to the provisions attached.

2. The director shall approve such applications for federal assistance administered through the **[**division**] department** as may be considered advisable after consultation with the Missouri **[**head**] brain** injury advisory council.

199.037. PATIENT RIGHTS, RULES AND REGULATIONS, DIRECTOR TO PROMULGATE — EXCEPTION. — The director of the **[**division**] department** shall promulgate reasonable rules relative to the implementation of patient rights described in sections 199.001 to **[**199.055**] 199.051**. These rules shall not apply to facilities, programs or services operated or provided by the curators of the University of Missouri.

199.039. MEANS TEST, DETERMINATION OF AMOUNT TO CHARGE FOR SERVICES, DIRECTOR TO PROMULGATE RULES AND REGULATIONS. — The director of the **[**division**] department** shall promulgate rules setting forth a reasonable standard means test which shall be applied to all facilities, programs and services operated or funded by the **[**division**] department** in determining the amount to be charged to persons receiving services. Notwithstanding other provisions of sections 199.001 to **[**199.055**] 199.051**, the department shall accept funds from federal reimbursement, third-party reimbursement, private pay or other funding sources.

199.041. PROBATE COURT TO NOTIFY DEPARTMENT, WHEN — ESTATE SUBJECT TO MEANS TEST, WHEN, PROCEDURE — APPEAL OF DECISION OF DIRECTOR. — 1. Any probate division of the circuit court having knowledge of the existence of an estate of a patient receiving services from residential facilities or other programs operated or funded by the **[**division**] department** shall promptly notify the director of the nature and extent of the estate and the identity of the attorney of record and conservator. The director shall then apply the standard means test contained in the rules of the **[**division**] department** to determine if the estate shall be charged for services rendered by the **[**division**] department**.

2. If the director determines that the estate should be charged for the evaluation, care, treatment, rehabilitation or room and board provided or funded by the **[**division**] department**, and notifies the conservator, the conservator shall pay the charges. If the conservator fails to pay for the charges, after reasonable delay, the head of the **[**division**] department**, residential facility or day program may discharge the patient.

3. The decision of the director shall be final, and appeal may be made to the circuit court of Cole County or the county where the person responsible for payment resides in the manner provided by chapter 536. The director shall notify the conservator and the supervising court of such failure to pay for services rendered by a facility or program operated or funded by the **[**division**] department** at least thirty days before the patient is discharged. If the conservator appeals the decision of the director, the patient shall remain in the facility or program pending final disposition of the appeal.

199.043. DISCRIMINATION PROHIBITED. — In accordance with state and federal law, no residential facility, day program or specialized service operated or funded by the **[**division**] department** shall deny admission or other services to any person because of his race, sex, creed, marital status, national origin, handicap or age.

199.051. INSPECTIONS, DEPARTMENT MAY CONDUCT, WHEN. — The **[**division**] department** may inspect any facility or program at any time if a contract has been issued or an application for a contract has been filed.

208.175. DRUG UTILIZATION REVIEW BOARD ESTABLISHED, MEMBERS, TERMS, COMPENSATION, DUTIES. — 1. The "Drug Utilization Review Board" is hereby established within the **[**division of medical services**] MO HealthNet division** and shall be composed of the

following health care professionals who shall be appointed by the governor **[**not later than October 1, 1992,**]** and whose appointment shall be subject to the advice and consent of the senate:

(1) Six physicians who shall include:

(a) Three physicians who hold the doctor of medicine degree and are active in medical practice;

(b) Two physicians who hold the doctor of osteopathy degree and are active in medical practice; and

(c) One physician who holds the doctor of medicine or the doctor of osteopathy degree and is active in the practice of psychiatry;

(2) Six actively practicing pharmacists who shall include:

(a) Three pharmacists who hold bachelor of science degrees in pharmacy and are active as retail or patient care pharmacists;

(b) Two pharmacists who hold advanced clinical degrees in pharmacy and are active in the practice of pharmaceutical therapy and clinical pharmaceutical management; and

(c) One pharmacist who holds either a bachelor of science degree in pharmacy or an advanced clinical degree in pharmacy and is employed by a pharmaceutical manufacturer of Medicaid-approved formulary drugs; and

(3) One certified medical quality assurance registered nurse with an advanced degree.

2. The membership of the drug utilization review board shall include health care professionals who have recognized knowledge and expertise in one or more of the following:

(1) The clinically appropriate prescribing of covered outpatient drugs;

(2) The clinically appropriate dispensing and monitoring of covered outpatient drugs;

(3) Drug use review, evaluation and intervention;

(4) Medical quality assurance.

3. A chairperson shall be elected by the board members **[**at their first meeting, which shall take place not later than November 1, 1992**]**. The board shall meet at least once every ninety days. A quorum of eight members, including no fewer than three physicians and three pharmacists, shall be required for the board to act in its official capacity.

4. Members appointed pursuant to subsection 1 of this section shall serve four-year terms, except that of the original members, four shall be appointed for a term of two years, four shall be appointed for a term of three years and five shall be appointed for a term of four years. Members may be reappointed.

5. The members of the drug utilization review board or any regional advisory committee shall receive no compensation for their services other than reasonable expenses actually incurred in the performance of their official duties.

6. The drug utilization review board shall, either directly or through contracts between the **[**division of medical services**] MO HealthNet division** and accredited health care educational institutions, state medical societies or state pharmacist associations or societies or other appropriate organizations, provide for educational outreach programs to educate practitioners on common drug therapy problems with the aim of improving prescribing and dispensing practices.

7. The drug utilization review board shall monitor drug usage and prescribing practices in the Medicaid program. The board shall conduct its activities in accordance with the requirements of subsection (g) of section 4401 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508). The board shall publish an educational newsletter to Missouri Medicaid providers as to its considered opinion of the proper usage of the Medicaid formulary. It shall advise providers of inappropriate drug utilization when it deems it appropriate to do so.

8. **The drug utilization review board may provide advice on guidelines, policies, and procedures necessary to establish and maintain the Missouri Rx plan.**

9. Office space and support personnel shall be provided by the division of medical services.

[9.**] 10.** Subject to appropriations made specifically for that purpose, up to six regional advisory committees to the drug utilization review board may be appointed. Members of the

regional advisory committees shall be physicians and pharmacists appointed by the drug utilization review board. Each such member of a regional advisory committee shall have recognized knowledge and expertise in one or more of the following:

(1) The clinically appropriate prescribing of covered outpatient drugs;

(2) The clinically appropriate dispensing and monitoring of covered outpatient drugs;

(3) Drug use review, evaluation, and intervention; or

(4) Medical quality assurance.

208.275. COORDINATING COUNCIL ON SPECIAL TRANSPORTATION, CREATION — MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, EXPENSES — STAFF — POWERS — DUTIES. — 1. As used in this section, unless the context otherwise indicates, the following terms mean:

(1) "Elderly", any person who is sixty years of age or older;

(2) "Handicapped", any person having a physical or mental condition, either permanent or temporary, which would substantially impair ability to operate or utilize available transportation.

2. There is hereby created the "Coordinating Council on Special Transportation" within the Missouri department of transportation. The members of the council shall be: **[**two members of the senate appointed by the president pro tem, who shall be from different political parties; two members of the house of representatives appointed by the speaker, who shall be from different political parties;**]** the assistant for transportation of the Missouri department of transportation, or his designee; the assistant commissioner of the department of elementary and secondary education, responsible for special transportation, or his designee; the director of the division of aging of the department of social services, or his designee; the deputy director for mental retardation/developmental disabilities and the deputy director for administration of the department of mental health, or their designees; the executive secretary of the governor's committee on the employment of the handicapped; and seven consumer representatives appointed by the governor by and with the advice and consent of the senate, four of the consumer representatives shall represent the elderly and three shall represent the handicapped. Two of such three members representing handicapped persons shall represent those with physical handicaps. Consumer representatives appointed by the governor shall serve for terms of three years or until a successor is appointed and qualified. Of the members first selected, two shall be selected for a term of three years, two shall be selected for a term of two years, and three shall be selected for a term of one year. In the event of the death or resignation of any member, his successor shall be appointed to serve for the unexpired period of the term for which such member had been appointed.

3. State agency personnel shall serve on the council without additional appropriations or compensation. The consumer representatives shall serve without compensation except for receiving reimbursement for the reasonable and necessary expenses incurred in the performance of their duties on the council from funds appropriated to the department of transportation. **[**Legislative members shall be reimbursed by their respective appointing bodies out of the contingency fund for such body for necessary expenses incurred in the performance of their duties.**]**

4. Staff for the council shall be provided by the Missouri department of transportation. The department shall designate a special transportation coordinator who shall have had experience in the area of special transportation, as well as such other staff as needed to enable the council to perform its duties.

5. The council shall meet at least quarterly each year and shall elect from its members a chairman and a vice chairman.

6. The coordinating council on special transportation shall:

(1) Recommend and periodically review policies for the coordinated planning and delivery of special transportation when appropriate;

(2) Identify special transportation needs and recommend agency funding allocations and resources to meet these needs when appropriate;

(3) Identify legal and administrative barriers to effective service delivery;

(4) Review agency methods for distributing funds within the state and make recommendations when appropriate;

(5) Review agency funding criteria and make recommendations when appropriate;

(6) Review area transportation plans and make recommendations for plan format and content;

(7) Establish measurable objectives for the delivery of transportation services;

(8) Review annual performance data and make recommendations for improved service delivery, operating procedures or funding when appropriate;

(9) Review local disputes and conflicts on special transportation and recommend solutions.

7. The provisions of this section shall expire on December 31, 2014.

208.955. COMMITTEE ESTABLISHED, MEMBERS, DUTIES — ISSUANCE OF FINDINGS — SUBCOMMITTEE DESIGNATED, DUTIES, MEMBERS. — 1. There is hereby established in the department of social services the "MO HealthNet Oversight Committee", which shall be appointed by January 1, 2008, and shall consist of **[**eighteen**] nineteen** members as follows:

(1) Two members of the house of representatives, one from each party, appointed by the speaker of the house of representatives and the minority floor leader of the house of representatives;

(2) Two members of the Senate, one from each party, appointed by the president pro tem of the senate and the minority floor leader of the senate;

(3) One consumer representative **who has no financial interest in the health care industry and who has not been an employee of the state within the last five years**;

(4) Two primary care physicians, licensed under chapter 334, **[**recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state,**]** who care for participants, not from the same geographic area**, chosen in the same manner as described in section 334.120**;

(5) Two physicians, licensed under chapter 334, who care for participants but who are not primary care physicians and are not from the same geographic area, **[**recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state**] chosen in the same manner as described in section 334.120**;

(6) One representative of the state hospital association;

(7) **[**One**] Two** nonphysician health care **[**professional**] professionals, the first nonphysician health care professional licensed under chapter 335 and the second nonphysician health care professional licensed under chapter 337,** who **[**cares**] care** for participants**[**, recommended by the director of the department of insurance, financial institutions and professional registration**]**;

(8) One dentist, who cares for participants**[**. The dentist shall be recommended by any Missouri organization or association that represents a significant number of dentists licensed in this state**], chosen in the same manner as described in section 332.021**;

(9) Two patient advocates **who have no financial interest in the health care industry and who have not been employees of the state within the last five years**;

(10) One public member **who has no financial interest in the health care industry and who has not been an employee of the state within the last five years**; and

(11) The directors of the department of social services, the department of mental health, the department of health and senior services, or the respective directors' designees, who shall serve as ex-officio members of the committee.

2. The members of the oversight committee, other than the members from the general assembly and ex-officio members, shall be appointed by the governor with the advice and consent of the senate. A chair of the oversight committee shall be selected by the members of

the oversight committee. Of the members first appointed to the oversight committee by the governor, eight members shall serve a term of two years, seven members shall serve a term of one year, and thereafter, members shall serve a term of two years. Members shall continue to serve until their successor is duly appointed and qualified. Any vacancy on the oversight committee shall be filled in the same manner as the original appointment. Members shall serve on the oversight committee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of social services for that purpose. The department of social services shall provide technical, actuarial, and administrative support services as required by the oversight committee. The oversight committee shall:

(1) Meet on at least four occasions annually, including at least four before the end of December of the first year the committee is established. Meetings can be held by telephone or video conference at the discretion of the committee;

(2) Review the participant and provider satisfaction reports and the reports of health outcomes, social and behavioral outcomes, use of evidence-based medicine and best practices as required of the health improvement plans and the department of social services under section 208.950;

(3) Review the results from other states of the relative success or failure of various models of health delivery attempted;

(4) Review the results of studies comparing health plans conducted under section 208.950;

(5) Review the data from health risk assessments collected and reported under section 208.950;

(6) Review the results of the public process input collected under section 208.950;

(7) Advise and approve proposed design and implementation proposals for new health improvement plans submitted by the department, as well as make recommendations and suggest modifications when necessary;

(8) Determine how best to analyze and present the data reviewed under section 208.950 so that the health outcomes, participant and provider satisfaction, results from other states, health plan comparisons, financial impact of the various health improvement plans and models of care, study of provider access, and results of public input can be used by consumers, health care providers, and public officials;

(9) Present significant findings of the analysis required in subdivision (8) of this subsection in a report to the general assembly and governor, at least annually, beginning January 1, 2009;

(10) Review the budget forecast issued by the legislative budget office, and the report required under subsection (22) of subsection 1 of section 208.151, and after study:

(a) Consider ways to maximize the federal drawdown of funds;

(b) Study the demographics of the state and of the MO HealthNet population, and how those demographics are changing;

(c) Consider what steps are needed to prepare for the increasing numbers of participants as a result of the baby boom following World War II;

(11) Conduct a study to determine whether an office of inspector general shall be established. Such office would be responsible for oversight, auditing, investigation, and performance review to provide increased accountability, integrity, and oversight of state medical assistance programs, to assist in improving agency and program operations, and to deter and identify fraud, abuse, and illegal acts. The committee shall review the experience of all states that have created a similar office to determine the impact of creating a similar office in this state; and

(12) Perform other tasks as necessary, including but not limited to making recommendations to the division concerning the promulgation of rules and emergency rules so that quality of care, provider availability, and participant satisfaction can be assured.

3. By July 1, 2011, the oversight committee shall issue findings to the general assembly on the success and failure of health improvement plans and shall recommend whether or not any health improvement plans should be discontinued.

4. The oversight committee shall designate a subcommittee devoted to advising the department on the development of a comprehensive entry point system for long-term care that shall:

(1) Offer Missourians an array of choices including community-based, in-home, residential and institutional services;

(2) Provide information and assistance about the array of long-term care services to Missourians;

(3) Create a delivery system that is easy to understand and access through multiple points, which shall include but shall not be limited to providers of services;

(4) Create a delivery system that is efficient, reduces duplication, and streamlines access to multiple funding sources and programs;

(5) Strengthen the long-term care quality assurance and quality improvement system;

(6) Establish a long-term care system that seeks to achieve timely access to and payment for care, foster quality and excellence in service delivery, and promote innovative and cost-effective strategies; and

(7) Study one-stop shopping for seniors as established in section 208.612.

5. The subcommittee shall include the following members:

(1) The lieutenant governor or his or her designee, who shall serve as the subcommittee chair;

(2) One member from a Missouri area agency on aging, designated by the governor;

(3) One member representing the in-home care profession, designated by the governor;

(4) One member representing residential care facilities, predominantly serving MO HealthNet participants, designated by the governor;

(5) One member representing assisted living facilities or continuing care retirement communities, predominantly serving MO HealthNet participants, designated by the governor;

(6) One member representing skilled nursing facilities, predominantly serving MO HealthNet participants, designated by the governor;

(7) One member from the office of the state ombudsman for long-term care facility residents, designated by the governor;

(8) One member representing Missouri centers for independent living, designated by the governor;

(9) One consumer representative with expertise in services for seniors or **[**the disabled**]** **persons with a disability**, designated by the governor;

(10) One member with expertise in Alzheimer's disease or related dementia;

(11) One member from a county developmental disability board, designated by the governor;

(12) One member representing the hospice care profession, designated by the governor;

(13) One member representing the home health care profession, designated by the governor;

(14) One member representing the adult day care profession, designated by the governor;

(15) One member gerontologist, designated by the governor;

(16) Two members representing the aged, blind, and disabled population, not of the same geographic area or demographic group designated by the governor;

(17) The directors of the departments of social services, mental health, and health and senior services, or their designees; and

(18) One member of the house of representatives and one member of the senate serving on the oversight committee, designated by the oversight committee chair.

Members shall serve on the subcommittee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of health and senior services for that purpose. The department of health and senior services shall provide technical and administrative support services as required by the committee.

6. By October 1, 2008, the comprehensive entry point system subcommittee shall submit its report to the governor and general assembly containing recommendations for the

implementation of the comprehensive entry point system, offering suggested legislative or administrative proposals deemed necessary by the subcommittee to minimize conflict of interests for successful implementation of the system. Such report shall contain, but not be limited to, recommendations for implementation of the following consistent with the provisions of section 208.950:

(1) A complete statewide universal information and assistance system that is integrated into the web-based electronic patient health record that can be accessible by phone, in-person, via MO HealthNet providers and via the Internet that connects consumers to services or providers and is used to establish consumers' needs for services. Through the system, consumers shall be able to independently choose from a full range of home, community-based, and facility-based health and social services as well as access appropriate services to meet individual needs and preferences from the provider of the consumer's choice;

(2) A mechanism for developing a plan of service or care via the web-based electronic patient health record to authorize appropriate services;

(3) A preadmission screening mechanism for MO HealthNet participants for nursing home care;

(4) A case management or care coordination system to be available as needed; and

(5) An electronic system or database to coordinate and monitor the services provided which are integrated into the web-based electronic patient health record.

7. Starting July 1, 2009, and for three years thereafter, the subcommittee shall provide to the governor, lieutenant governor and the general assembly a yearly report that provides an update on progress made by the subcommittee toward implementing the comprehensive entry point system.

8. The provisions of section 23.253 shall not apply to sections 208.950 to 208.955.

210.101. CHILDREN'S SERVICES COMMISSION ESTABLISHED, MEMBERS, QUALIFICATIONS — MEETINGS OPEN TO PUBLIC, NOTICE — RULES — STAFF — EX OFFICIO MEMBERS. — 1. There is hereby established the "Missouri Children's Services Commission", which shall be composed of the following members:

(1) The director or **[**deputy director of the department of labor and industrial relations and the director or deputy director of each state agency, department, division, or other entity which provides services or programs for children, including, but not limited to, the department of mental health, the department of elementary and secondary education, the department of social services, the department of public safety and the department of health and senior services**] the director's designee of the following departments: corrections, elementary and secondary education, higher education, health and senior services, labor and industrial relations, mental health, public safety, and social services**;

(2) One judge of a **family or** juvenile court, who shall be appointed by the chief justice of the supreme court;

(3) **[**One judge of a family court, who shall be appointed by the chief justice of the supreme court;

(4) Four**] Two** members, **[**two**] one** from each political party, of the house of representatives, who shall be appointed by the speaker of the house of representatives;

[(5) Four**] (4) Two** members, **[**two**] one** from each political party, of the senate, who shall be appointed by the president pro tempore of the senate **[.] ;** All members shall serve for as long as they hold the position which made them eligible for appointment to the Missouri children's services commission under this subsection. All members shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

2. All meetings of the Missouri children's services commission shall be open to the public and shall, for all purposes, be deemed open public meetings under the provisions of sections 610.010 to 610.030. The Missouri children's services commission shall meet no less than once

every two months**[**, and shall hold its first meeting no later than sixty days after September 28, 1983**]**. Notice of all meetings of the commission shall be given to the general assembly in the same manner required for notifying the general public of meetings of the general assembly.

3. The Missouri children's services commission may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers.

4. The commission shall elect from amongst its members a chairman, vice chairman, a secretary-reporter, and such other officers as it deems necessary.

5. The services of the personnel of any agency from which the director or deputy director is a member of the commission shall be made available to the commission at the discretion of such director or deputy director. All meetings of the commission shall be held in the state of Missouri.

6. The officers of the commission may hire an executive director. Funding for the executive director may be provided from the Missouri children's services commission fund or other sources provided by law.

7. The commission, by majority vote, may invite individuals representing local and federal agencies or private organizations and the general public to serve as ex officio members of the commission. Such individuals shall not have a vote in commission business and shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

210.105. MISSOURI TASK FORCE ON PREMATURITY AND INFANT MORTALITY CREATED — MEMBERS, OFFICERS, EXPENSES — DUTIES — REPORT — EXPIRATION DATE. — 1. There is hereby created the "Missouri Task Force on Prematurity and Infant Mortality" within the children's services commission to consist of the following eighteen members:

(1) The following six members of the general assembly:

(a) Three members of the house of representatives, with two members to be appointed by the speaker of the house and one member to be appointed by the minority leader of the house;

(b) Three members of the senate, with two members to be appointed by the president pro tem of the senate and one member to be appointed by the minority leader of the senate;

(2) The director of the department of health and senior services, or the director's designee;

(3) The director of the department of social services, or the director's designee;

(4) The director of the department of insurance, financial institutions and professional registration, or the director's designee;

(5) One member representing a not-for-profit organization specializing in prematurity and infant mortality;

(6) Two members who shall be either a physician or nurse practitioner specializing in obstetrics and gynecology, family medicine, pediatrics or perinatology;

(7) Two consumer representatives who are parents of individuals born prematurely, including one parent of an individual under the age of eighteen;

(8) Two members representing insurance providers in the state;

(9) One small business advocate; and

(10) One member of the small business regulatory fairness board.

Members of the task force, other than the legislative members and directors of state agencies, shall be appointed by the governor with the advice and consent of the senate by September 15, 2011.

2. A majority of a quorum from among the task force membership shall elect a chair and vice-chair of the task force.

3. A majority vote of a quorum of the task force is required for any action.

4. The chairperson of the children's services commission shall convene the initial meeting of the task force by no later than October 15, 2011. The task force shall meet at least quarterly; except that the task force shall meet at least twice prior to the end of 2011. Meetings may be held by telephone or video conference at the discretion of the chair.

5. Members shall serve on the commission without compensation, but may, subject to appropriation, be reimbursed for actual and necessary expenses incurred in the performance of their official duties as members of the task force.

6. The goal of the task force is to seek evidence-based and cost-effective approaches to reduce Missouri's preterm birth and infant mortality rates.

7. The task force shall:

(1) Submit findings to the general assembly;

(2) Review appropriate and relevant evidence-based research regarding the causes and effects of prematurity and birth defects in Missouri;

(3) Examine existing public and private entities currently associated with the prevention and treatment of prematurity and infant mortality in Missouri;

(4) Develop cost-effective strategies to reduce prematurity and infant mortality; and

(5) Issue findings and propose to the appropriate public and private organizations goals, objectives, strategies, and tactics designed to reduce prematurity and infant mortality in Missouri, including recommendations on public policy for consideration during the next appropriate session of the general assembly.

8. On or before December 31, 2013, the task force shall submit a report on their findings to the governor and general assembly. The report shall include any dissenting opinions in addition to any majority opinions.

9. The task force shall expire on January 1, 2015, or upon submission of a report under subsection 8 of this section, whichever is earlier.

260.372. POWERS AND DUTIES OF COMMISSION. — 1. The Missouri hazardous waste management commission within the Missouri department of natural resources is hereby given the authority to aid in the promotion of hazardous waste recycling, reuse, or reduction by entering into contracts, subject to appropriations, for the development and implementation of projects dealing with said uses of hazardous wastes or the purchase and development of machinery, equipment, appliances, devices, and supplies solely required to develop and operate hazardous waste recycling, reuse, and reduction projects.

2. The hazardous waste management commission within the Missouri department of natural resources shall promulgate rules and regulations to establish or participate in one or more regional waste exchange clearing houses where generators of wastes may list those wastes that have market value or other use.

3. The hazardous waste management commission within the Missouri department of natural resources shall act in an advisory capacity to Missouri's member on the midwest low-level radioactive waste compact commission, review activities of the midwest low-level radioactive waste compact commission and midwest interstate radioactive waste compact states, and present recommendations in writing to the governor and the general assembly as requested or as necessary to insure adequate exchange of information.

260.705. DEFINITIONS. — Unless the context clearly requires otherwise, the following words and phrases mean:

(1) **[**"Advisory committee", the low-level radioactive waste compact advisory committee;

(2)**]** "Care", the continued observation of a facility after closure for the purposes of detecting a need for maintenance, insuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and including the correction of problems which are detected as a result of that observation;

[(3)**]** **(2)** "Clean-up", all actions necessary to contain, collect, control, identify, analyze, treat, disperse, remove, or dispose of low-level radioactive waste;

[(4)**]** **(3)** "Closure", measures which must be taken by a facility owner or operator when he determines that the facility shall no longer accept low-level radioactive waste;

[(5)**]** **(4)** "Commission", the midwest interstate low-level radioactive waste commission;

[(6)**]** **(5)** "Decommissioning", the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility;

[(7)**]** **(6)** "Facility", a parcel of land or site, together with the structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste;

[(8)**]** **(7)** "Host state", any state which is designated by the commission to host a regional facility;

[(9)**]** **(8)** "Low-level radioactive waste" or "waste", radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or by-product material as defined in Section 11(e)(2) of the Atomic Energy Act of 1954;

[(10)**]** **(9)** "Midwest low-level radioactive waste compact", the midwest interstate compact on low-level radioactive waste as enacted by the Missouri general assembly;

[(11)**]** **(10)** "Radioactive release", the emission, discharge, spillage, leakage, pumping, pouring, emptying or dumping of low-level radioactive waste into the biosphere which exceeds state or federal standards;

[(12)**]** **(11)** "Region", the area of the party states to the midwest low-level radioactive waste compact;

[(13)**]** **(12)** "Regional facility", a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the commission; and

[(14)**]** **(13)** "Site", the geographic location of a facility.

260.720. COMPACT COMMISSIONER AND ALTERNATE, APPOINTMENT, COMPENSATION, WHEN, EXPENSES, DUTIES. — 1. The governor shall appoint one member and one alternate member to represent Missouri's interests on the midwest low-level radioactive waste compact commission. Such appointment shall be with the advice and consent of the senate, as provided in section 51 of article IV of the Constitution of Missouri. The state's member on the commission, or the alternate, shall be entitled to reimbursement for expenses necessarily incurred in the discharge of his official duties plus, if not an employee of the state, fifty dollars for each day devoted to the affairs of the commission.

2. Missouri's member on the commission shall **[**also serve on the advisory committee created by section 260.725, and**]** report activities of the commission to the **[**advisory committee**]** **hazardous waste management commission**, governor and general assembly as requested.

260.735. DESIGNATION AS HOST STATE, GOVERNOR'S DUTY — APPROVAL BY GENERAL ASSEMBLY REQUIRED, EXCEPTION. — 1. In the event Missouri is designated by the commission to be a host state for a regional low-level radioactive waste disposal facility, the director of the department of natural resources shall, within seven days, report to the governor, the legislature and the **[**advisory committee**]** **hazardous waste management commission** with recommendations for further action.

2. If Missouri is designated as the host state for a regional disposal facility, the governor shall provide notification of withdrawal, pursuant to Article VIII(i) of the Midwest Interstate Low-Level Radioactive Waste Compact, unless that designation is approved by the general assembly by a concurrent resolution; provided however, that if the general assembly, having had the opportunity to consider the issue of whether or not to remain in the compact, for a period of not less than sixty days within the ninety-day period immediately following such designation,

fails to render a concurrent resolution approving such designation or a concurrent resolution calling for Missouri to withdraw from the compact, the governor need not provide such notification of withdrawal.

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

(1) "Commission", the labor and industrial relations commission;

(2) **[**"Council", the governor's council on disability;

(3)**]** "Department", the department of labor and industrial relations;

[(4)**] (3)** "Director", the director of the department of labor and industrial relations;

[(5)**] (4)** "Division", the divisions of employment security, labor standards and workers' compensation; and

[(6)**] (5)** "Division heads", the division directors for each of the divisions.

286.005. CREATION OF DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, GENERAL POWERS AND DUTIES — COMMISSION CREATED, COMPENSATION — DIRECTOR'S APPOINTMENT. — 1. There is hereby created a "Department of Labor and Industrial Relations" to be headed by a labor and industrial relations commission as provided by section 49, article IV, Constitution of Missouri. All the powers, duties and functions of the industrial commission are transferred by type I transfer to the labor and industrial relations commission and the industrial commission is abolished. The commission shall nominate and the governor shall appoint, with the advice and consent of the senate, the director of the department to be the chief administrative officer of the department. Members of the industrial commission on May 2, 1974, shall become members of the commission and the terms of the commission members shall be the same as provided by law for the industrial commission. Individuals appointed as members of the industrial commission shall serve the remainder of the term to which they were appointed as members of the commission. The members of the commission shall receive an annual salary of seventy-two thousand seven hundred thirty-five dollars plus any salary adjustment provided pursuant to section 105.005 payable out of the state treasury. The board of rehabilitation is abolished as hereinafter set out and on May 2, 1974, no compensation shall be paid to any person as a member of the board of rehabilitation, other provisions of the law notwithstanding. The director of the department shall appoint other division heads in the department. For the purposes of subsections 6, 7, 8 and 9 of section 1 of the reorganization act of 1974, the director of the department shall be construed as the head of the department of labor and industrial relations.

2. All powers, duties, and functions vested by law in the division of employment security, chapter 288, and others, are transferred by type II transfer to the department.

3. All powers, duties, and functions vested by law in the division of workers' compensation, chapter 287, and others, are transferred by type II transfer to the department.

4. All the powers, duties, and functions of the board of rehabilitation, chapter 287, and others, are transferred by type I transfer to the division of workers' compensation of the department and the board of rehabilitation is abolished.

5. All powers, duties and functions vested by law in the division of industrial inspections and the division of mine inspections, chapters 286, 290, 291, 292, 293, 294 and 444, which were previously transferred by type I transfer to the inspection section of the department, are transferred to the division of labor standards of the department. Employees of the division performing duties related to the mine safety and health act and the occupational safety health act shall be selected in accord with chapter 36.

6. All the powers, duties, and functions vested by law in the state board of mediation under chapter 295, and others, are transferred by type II transfer to the department.

7. All employees of the division of employment security shall be selected in accord with chapter 36.

8. The Missouri commission on human rights, and all the authority, powers, duties, functions, records, personnel, property, matters pending and other pertinent vestiges thereof vested in the Missouri commission on human rights under chapters 213, 296, 314, and others, are transferred by type III transfer to the department. Members of the Missouri commission on human rights shall be nominated by the director for appointment by the governor, by and with the advice and consent of the senate.

[9. The department shall act as the administrative entity for the governor's council on disability. The federal and state funds necessary for the administration and implementation of the programs and services provided by the governor's council on disability shall be appropriated through the department.**]**

304.028. BRAIN INJURY FUND CREATED, MONEYS IN FUND, USES — SURCHARGE IMPOSED, WHEN. — 1. There is hereby created in the state treasury for use by the **[**Missouri Head Injury Advisory Council**] department of health and senior services** a fund to be known as the "**[**Head**] Brain** Injury Fund". All judgments collected pursuant to this section, federal grants, private donations and any other moneys designated for the **[**head**] brain** injury fund shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the **[**office of administration**] department of health and senior services**, be received and expended by the **[**council**] department** for the purpose of transition and integration of medical, social and educational services or activities for purposes of outreach and **[**short-term**]** supports to enable individuals with traumatic **[**head**] brain** injury and their families to live in the community**[**, including counseling and mentoring the families**]**. Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in the **[**head**] brain** injury fund at the end of any biennium shall not be transferred to the general revenue fund.

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

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

320.094. FIRE EDUCATION FUND CREATED, ANNUAL TRANSFERS — TREASURER TO ADMINISTER FUND — TRANSFER FROM GENERAL REVENUE — FIRE EDUCATION TRUST FUND ESTABLISHED, ADMINISTRATION — APPROPRIATION TO DIVISION OF FIRE SAFETY — FIRE EDUCATION/ADVISORY COMMISSION ESTABLISHED, MEMBERS, TERMS, COMPENSATION, MEETINGS, DUTIES. — 1. The state treasurer shall annually transfer an amount prescribed in subsection 2 of this section out of the state revenues derived from premium taxes levied on insurance companies pursuant to sections 148.310 to 148.461 which are deposited by the director of revenue in the general revenue fund pursuant to section 148.330 in a fund hereby created in the state treasury, to be known as the "Fire Education Fund". Any interest earned from investment of moneys in the fund, and all moneys received from gifts, grants, or other moneys appropriated by the general assembly, shall be credited to the fund. The state treasurer shall administer the fund, and the moneys in such fund shall be used solely as prescribed in this section. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the fire education fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

2. Beginning July 1, 1998, three percent of the amount of premium taxes collected in the immediately preceding fiscal year pursuant to sections 148.310 to 148.461 which are deposited in the general revenue fund that exceeds the amount of premium taxes which were deposited in the general revenue fund in the 1997 fiscal year shall be transferred from the general revenue

fund to the credit of the fire education fund. At the end of each fiscal year, the commissioner of administration shall determine the amount transferred to the credit of the fire education fund in each fiscal year by computing the premium taxes deposited in the general revenue fund in the prior fiscal year and comparing such amount to the amount of premium taxes deposited in the general revenue fund in the 1997 fiscal year. An amount equal to three percent of the increase computed pursuant to this section shall be transferred by the state treasurer to the credit of the fire education fund; however, such transfer in any fiscal year shall not exceed one million five hundred thousand dollars.

3. There is hereby established a special trust fund, to be known as the "Missouri Fire Education Trust Fund", which shall consist of all moneys collected per subsection 2 of this section transferred to the fund from the fire education fund pursuant to this subsection, any earnings resulting from the investment of moneys in the fund, and all moneys received from gifts, grants, or other moneys appropriated by the general assembly. Each fiscal year, an amount equal to forty percent of the moneys transferred to the fire education fund collected pursuant to subsection 2 of this section shall be transferred by the state treasurer to the credit of the Missouri fire education trust fund. The fund shall be administered by **[**a board of trustees, consisting of the state treasurer, two members of the senate appointed by the president pro tem of the senate, two members of the house of representatives appointed by the speaker of the house, and two members appointed by the governor with the advice and consent of the senate. Any member appointed due to such person's membership in the senate or house of representatives shall serve only as long as such person holds the office referenced in this section. The state treasurer shall invest moneys in the fund in a manner as provided by law**] the Missouri fire safety education/advisory commission**. Subject to appropriations, moneys in the fund shall be used solely for the purposes described in this section**[**, but such appropriations shall be made only if the board recommends to the general assembly that such moneys are needed in that fiscal year to adequately fund the activities described in this section**]**. Moneys shall accumulate in the trust fund until the earnings from investment of moneys in the fund can adequately support the activities described in this section, as determined by the **[**board**] commission**. **[**At such time, the board may recommend that the general assembly adjust or eliminate the funding mechanism described in this section.**]** Notwithstanding the provisions of section 33.080 to the contrary, moneys in the Missouri fire education trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

4. The moneys in the fire education fund**[**, after any distribution pursuant to subsection 3 of this section,**]** shall be appropriated to the division of fire safety to coordinate education needs in cooperation with community colleges, colleges, regional training facilities, fire and emergency services training entities and universities of this state and shall provide training and continuing education to firefighters in this state relating to fire department operations and the personal safety of firefighters while performing fire department activities. Programs and activities funded under this subsection **[**must**] shall** be approved by the Missouri fire **safety** education **advisory** commission established in subsection 5 of this section. These funds shall primarily be used to provide field education throughout the state, with not more than two percent of funds under this subsection expended on administrative costs.

5. There is established the "Missouri Fire **Safety** Education/**Advisory** Commission", to be domiciled in the division of fire safety within the department of public safety. The commission shall be composed of **[**five**] nine** members appointed by the governor with the advice and consent of the senate, consisting of **[**one firefighter**] two firefighters, with one** serving as a volunteer of a **[**volunteer fire protection association,**] recognized fire department and** one **serving as a** full-time firefighter employed by a recognized fire department **[**or fire protection district, one firefighter training officer**] , two members shall be fire service training officers, one member shall be a person with expertise in fire investigation, one member shall be an insurer licensed to provide insurance coverage for losses due to fire, one member who provides fire safety appliances or equipment**, one **[**person**] member who is** serving as the

chief of a **recognized** volunteer fire **[**protection association**] department**, and one **member serving as the full-time** chief **[**fire officer from**] of** a recognized **paid** fire department **[**or fire protection district**]**. No more than **[**three**] five** members appointed by the governor shall be of the same political party. The terms of office for the members appointed by the governor shall be four years and until their successors are selected and qualified, except that, of those first appointed, two shall have a term of four years, two shall have a term of three years and one shall have a term of two years. There is no limitation on the number of terms an appointed member may serve. The governor may appoint a member for the remaining portion of the unexpired term created by a vacancy. The governor may remove any appointed member for cause. The members shall at their initial meeting select a chair. All members of the commission shall serve without compensation for their duties, but shall be reimbursed for necessary travel and other expenses incurred in the performance of their official duties. The commission shall meet at least quarterly at the call of the chair and shall review and determine appropriate programs and activities for which funds may be expended under subsection 4 of this section.

320.205. FIRE MARSHAL, APPOINTMENT, QUALIFICATIONS. — [1.**]** The governor, with the advice and consent of the senate, shall appoint a full-time state fire marshal, who shall be the head of the division of fire safety. The state fire marshal shall administer and enforce the provisions of sections 320.200 to 320.270. The state fire marshal shall be a citizen of the United States, shall be a person of good moral character, and a resident taxpayer of Missouri at the time of his appointment. The state fire marshal must have had a minimum of ten years' experience in some phase of fire protection, fire prevention, or fire investigation, which may include experience with any state, municipal, military, or industrial fire protection agency. **[**He**] The state fire marshal** shall possess administrative ability and experience **[**and**] ,** be able to obtain facts in connection with the duties of **[**his**] the** office by field investigations, and **be able** to accurately report **[**his**]** findings.

[2. There is hereby established within the department of public safety the "Missouri Fire Safety Advisory Board", which shall be composed of six members appointed by the governor, by and with the advice and consent of the senate, from a list of qualified candidates submitted to the governor by the director of the department of public safety. It shall be the duty of the Missouri fire safety advisory board to advise the fire marshal on all matters pertaining to the responsibilities of the fire marshal and the division. All members of the Missouri fire safety advisory board shall be qualified voters of Missouri at the time of their appointment, shall receive no compensation for their services, and shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. Of the members appointed to the Missouri fire safety advisory board, one shall be a chief of a fire department located within this state, one shall be a firefighter, one shall be a person with expertise in the investigation of arson, one shall be an instructor in a firefighting training program, one shall be a person who provides fire safety appliances and equipment, and one shall be an insurer duly licensed to provide insurance coverage for losses due to fire.**]**

324.1100. DEFINITIONS. — As used in sections 324.1100 to 324.1148, the following terms mean:

(1) "Board", the board of private investigator **and private fire investigator** examiners established in section 324.1102;

(2) "Client", any person who engages the services of a private investigator **or a private fire investigator**;

(3) "Department", the department of insurance, financial institutions and professional registration;

(4) "Director", the director of the division of professional registration;

(5) "Division", the division of professional registration;

(6) **"Insurance adjuster", 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;**

(7) "Law enforcement officer", a law enforcement officer as defined in section 556.061;

[(7)**] (8)** "Organization", a corporation, trust, estate, partnership, cooperative, or association;

[(8)**] (9)** "Person", an individual or organization;

[(9)**] (10) "Principal place of business", the place where the licensee maintains a permanent office, which may be a residence or business address;**

(11) "Private fire investigation", the furnishing of, making of, or agreeing to make any investigation of a fire to determine the origin or cause of such fire, or responsibility for such fire;

(12) "Private fire investigator", any person who receives any consideration, either directly or indirectly, for engaging in private fire investigation;

(13) "Private fire investigator agency", a person or firm that employees any person to engage in private fire investigations;

(14) "Private investigator", any person who receives any consideration, either directly or indirectly, for engaging in the private investigator business;

[(10)**] (15)** "Private investigator agency", a person who regularly employs any other person, other than an organization, to engage in the private investigator business;

[(11)**] (16)** "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, DUTIES, MEMBERS, QUALIFICATIONS, TERMS — FUND CREATED, USE OF MONEYS. — 1. The "Board of Private Investigator **and Private Fire Investigator** Examiners" is hereby created within the division of professional registration. The board shall be a body corporate and may sue and be sued. **The board shall guide, advise, and make recommendations to the division and fulfill all other responsibilities designated by sections 324.1100 to 324.1148. The duties and responsibilities of the board with regard to private fire investigators shall not take full force and effect until such time as the governor appoints the fire investigator members and the appointments are confirmed by the senate. Members serving on the board of private investigator examiners on August 28, 2011, shall continue to serve on the board, fulfill the term they were previously appointed for, and be eligible for reappointment.**

2. **Upon appointment by the governor and confirmation by the senate of the private fire investigator members, the board of private investigator examiners and the board of licensed private fire investigator examiners are abolished and their duties and responsibilities shall merge into the board of private investigator and private fire investigator examiners as established pursuant to this section. The board shall be a continuance of and shall carry out the powers, duties, and functions of the board of private investigator examiners and the board of licensed private fire investigator examiners.**

3. Every act performed in the exercise of such powers, duties, and authorities by or under the authority of the board of private investigator and private fire investigator examiners shall be deemed to have the same force and effect as if performed by the board of private investigator examiners or the board of licensed private fire investigator examiners.

4. All rules and regulations of the board of private investigator examiners shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the board of private investigator and private fire investigator examiners until revised, amended, or repealed by the board. The board shall review such rules and regulations and shall adopt new rules and regulations as required for the administration of sections 324.1100 to 324.1148.

5. Any person licensed by the board of private investigator examiners prior to the appointment by the governor and confirmation by the senate of the private fire investigator members of the board shall be considered licensed by the board.

6. The board shall be composed of **[**five**] seven** members,**[**including**] three members who have been actively engaged in the private investigator business for the previous five years, two members who have been actively engaged in private fire investigation for the previous five years, and** 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 for at least one year, **and** a registered voter**[**, 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 **or fire investigator** board member may be employed by, or affiliated with, the same private investigator agency **or fire investigator agency**. The initial **[**private**] fire** 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 **the** licensure **of private fire investigators**. The public members shall each be **[**a citizen of the United States, a resident of Missouri, 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.**] 7.** The members shall be appointed for terms of five years, except **[**those**] of the** first **two members** appointed **who are fire investigators**, **[**in which case two members, who shall be private investigators,**] one member** shall be appointed for **[**terms**] a term** of **[**four**] five** years**[**, two members**] and one member** shall be appointed for **[**terms**] a term** 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**]**.

[4.**] 8.** 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**]**

9. All money held in the board of private investigator examiners fund shall be transferred to the "Board of Private Investigator and Private Fire Investigator Examiners Fund" which is hereby created. The "Board of Private Investigator **and Private Fire 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 may approve disbursements from the fund in accordance with the provisions of sections 30.170 and 30.180. 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 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.

324.1103. DUTIES OF DIVISION. — For the purposes of sections 324.1100 to 324.1148, the division shall:

(1) Employ board personnel, within the limits of the appropriations for that purpose as established in sections 324.1100 to 324.1148;

(2) Exercise all administrative functions;

(3) Deposit all fees collected under sections 324.1100 to 324.1148 by transmitting such funds to the department of revenue for deposit in the state treasury to the credit of the board of private investigator **and private fire investigator** examiners fund.

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 **or carry out a private fire investigation** in this state unless such person is licensed as a private investigator **or private fire 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 **or private fire 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 certified public accountant performing duties as a certified public accountant who holds an active license issued by any state and the employees of such certified public accountant or certified public accounting firm assisting in the performance of duties or investigation on behalf of such certified public accountant or certified public accounting firm;

(6) 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;

(7) Insurers and insurance producers licensed by the state, performing duties in connection with insurance transacted by them;

(8) 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;

(9) 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**]**;

(10) 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;

(11) Employees of an organization, whether for-profit or not-for-profit, 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;

(12) Any real estate broker, real estate salesperson, or real estate appraiser acting within the scope of his or her license;

(13) Expert witnesses who have been certified or accredited by a national or state association associated with the expert's scope of expertise;

(14) Any person who does not hold themselves out to the public as a private investigator and is exclusively employed by or under exclusive contract with a state agency or political subdivision;

(15) Any person performing duties or activities relating to serving legal process when such person's duties or activities are incidental to the serving of legal process; or

(16) A consumer reporting agency as defined in 15 U.S.C. Section 1681a and its contract and salaried employees.

324.1107. PRIVATE FIRE INVESTIGATION, DEEMED NOT ENGAGING IN, WHEN. — The following persons or organizations shall not be deemed to be engaging in private fire investigation:

(1) Any officer or employee of the United States, this state, or a political subdivision of this state, or an entity organized under section 320.300 while engaged in the performance of the officer's or employee's official duties;

(2) An attorney performing duties as an attorney;

(3) An investigator who is an employee of an insurance company;

(4) Insurers and insurance producers licensed by the state, performing duties in connection with insurance transacted by them;

(5) An insurance adjuster;

(6) An investigator employed by and under the supervision of a licensed attorney while acting within the scope of employment who does not represent himself or herself to be a licensed private fire investigator; or

(7) An individual certified by the division of fire safety as a fire instructor while providing instruction, except if the individual conducts an on-site investigation within the course of instruction.

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**, private fire investigator, or private fire investigator agency** shall make application therefor to the board **[**of private investigator examiner**]**. 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, central repository, under section 43.543;

(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. 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.

324.1109. PRIVATE FIRE INVESTIGATORS, OWNER SEEKING AGENCY LICENSEE MUST HAVE INVESTIGATOR LICENSE, REQUIREMENTS. — 1. The owner of a company seeking any fire investigator agency license shall be licensed as a private fire investigator. The fire investigator agency may hire individuals to work for the agency who shall conduct investigations for such fire investigator agency only. Such individuals shall make application for a license as determined by the board and shall meet all requirements set forth by the board by rule. These individuals shall not be required to meet any experience requirements and shall be allowed to begin work immediately upon approval of the application by the board. Employees shall attend an approved training program within a time to be determined by the board and shall be under the direct supervision of a licensed private fire investigator until all requirements are met.

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. A licensee is legally responsible for any acts committed by the licensee and the licensee's employees or agents which are in violation of section 324.1100 to 324.1148. A person receiving an agency license shall directly manage the agency and employees.

3. Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board by rule. Such licensee shall file with the board the complete address of the licensee's principal place of business, including the name and number of the street. The board may require the filing of other information for the purpose of identifying such principal place of business.

324.1110. LICENSURE REQUIREMENTS. — 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.

(1) 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:

(a) Registration and good standing as a business in this state; and

(b) Two hundred fifty thousand dollars in business general liability insurance.

(2) 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.

2. **The board shall require as a condition of licensure as a private fire investigator that the applicant:**

(1) Provide evidence of active certification as a fire investigator issued by the division of fire safety; and

(2) Provide proof of liability insurance with coverage of at least one million dollars.

3. The board shall conduct a complete investigation of the background of each applicant for licensure as a private investigator **or private fire investigator** to determine whether the applicant is qualified for licensure under sections 324.1100 to 324.1148. The board shall outline basic qualification requirements for licensing as a private investigator**, private investigator agency, private fire investigator,** and **private fire investigator** 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. — 1. 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) 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;

(3) Has been convicted of or entered a plea of guilty or nolo contendere to a misdemeanor offense involving moral turpitude, including receiving a suspended imposition of sentence following a plea of guilty to a misdemeanor offense;

(4) Has been refused a license under sections 324.1100 to 324.1148 or had a license revoked or denied in this state or any other state;

(5) Has falsified or willfully misrepresented information in an employment application, records of evidence, or in testimony under oath;

(6) Has been dependent on or abused alcohol or drugs; or

(7) Has used, possessed, or trafficked in any illegal substance;

(8) **[**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;

(9)**]** 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 August 28, 2007; or

[(10)**]** **(9)** Knowingly made any false statement in the application **to the board**.

2. The board shall consider any evidence of the applicant's rehabilitation when considering a request for licensure.

324.1114. FEE REQUIRED — LICENSE FOR INDIVIDUALS ONLY, AGENCY LICENSE MUST BE APPLIED FOR SEPARATELY. — 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.

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 **issued under sections 324.1100 to 324.1148** shall allow only the individual licensed by the state of Missouri to conduct investigations **as designated by the licensure classification**. An agency license shall be applied for separately and held by a person who is licensed as a private investigator **or private fire 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**] approval of the application by the board**.

324.1116. AGENCY HIRING CRITERIA. — A private investigator agency **or private fire 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, central repository, under section 43.543; and

(4) Complies with any other qualifications and requirements the board adopts by rule.

324.1118. LICENSURE REQUIRED — PROHIBITED ACTS. — A private investigator agency **or private fire investigator agency** shall not hire an individual, who is not licensed as a private investigator **or private fire 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 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, including receiving a suspended imposition of sentence following a plea of guilty to a misdemeanor offense;

(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**, denied, or refused** 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 August 28, 2007; 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 **or private fire investigator**, hired as an employee by a private investigator agency **or private fire 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 or private fire investigator who is hired as an employee by a private investigator agency or private fire investigator agency shall successfully complete eight hours of

continuing education units biennially. Such continuing education shall be relevant to the private investigator **or private fire investigator** business and shall be approved by the board as such.

324.1124. FORM OF LICENSE, CONTENTS — POSTING REQUIREMENTS. — 1. The division shall determine the form 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.

324.1128. INFORMATION REGARDING CRIMINAL OFFENSES, LICENSEE TO DIVULGE AS REQUIRED BY LAW — 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 shall not divulge to any other person, except as required by law, any other information acquired by the licensee at the direction of his or her employer or client for whom the information was obtained. A licensee may instruct his or her client to divulge any information to the board, any law enforcement officer, prosecuting attorney, or other such person's representative related to a criminal offense if the client is the victim of the criminal offense.

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) **Allow anyone other than the individual licensed pursuant to the provisions of sections 324.1100 to 324.1148 or otherwise authorized by such sections to conduct an investigation;**

(7) Assign or transfer a license issued pursuant to section 324.1100 to 324.1148; or

(8) 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**, except in a proceeding against such licensee officer, director, partner, associate, or employee**.

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**, private fire investigator, or private fire investigator agency** without including their **[**state private investigator or private investigator**] individual or** 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 determined by the board.

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 **issue or** 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. 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 against any holder of any certificate of registration or authority, permit or license required by **[**this chapter**] sections 324.1100 to 324.1148** 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 giving any false information 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**, fire safety 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;

(9) Violating or assisting or enabling any person to violate any provision of this chapter or any lawful rule or regulation adopted pursuant to the authority granted in this chapter; or

(10) 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. 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 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.

2.**]** Each **[**private investigator or investigator agency**]** **licensee** 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**]** **licensee** 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.

[3.**]** **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.

[4.**]** **3.** Any licensee who is required by fully executed written contract or court order to destroy, seal, or return to a party to a lawsuit, or to the court, records related to work performed under that contract or court order shall maintain in his or her files a fully executed copy of the contract or court order requiring destruction, sealing, or return of the records. Maintenance of the contract or court order shall fulfill the requirements of this section.

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. **The board may establish by rule requirements for a dual license to be issued to individuals who qualify separately for both a private investigator and private fire investigator licensure.**

3. The board may establish by rule a code of conduct.

4. Any rule or portion of a rule, as that term is defined in section 536.010, 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 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.

324.1144. RECIPROCITY. — The board may negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed private **[**investigator**]** **investigators, fire investigators, private investigator agencies, and private fire 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.

332.021. DENTAL BOARD, MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, VACANCY, HOW FILLED — BOARD MAY SUE AND BE SUED. — 1. "The Missouri Dental Board" shall consist of seven members including five registered and currently licensed dentists, one registered and currently licensed dental hygienist with voting authority as limited in subsection 4 of this section, and one voting public member. Any currently valid certificate of registration or currently valid specialist's certificate issued by the Missouri dental board as constituted pursuant to prior law shall be a valid certificate of registration or a valid specialist's certificate, as the case may be, upon October 13, 1969, and such certificates shall be valid so long as the holders thereof comply with the provisions of this chapter.

2. Any person other than the public member appointed to the board as hereinafter provided shall be a dentist or a dental hygienist who is registered and currently licensed in Missouri, is a United States citizen, has been a resident of this state for one year immediately preceding his or her appointment, has practiced dentistry or dental hygiene for at least five consecutive years immediately preceding his or her appointment, shall have graduated from an accredited dental

school or dental hygiene school, and at the time of his or her appointment or during his or her tenure on the board has or shall have no connection with or interest in, directly or indirectly, any dental college, dental hygiene school, university, school, department, or other institution of learning wherein dentistry or dental hygiene is taught, or with any dental laboratory or other business enterprise directly related to the practice of dentistry or dental hygiene.

3. The governor shall appoint members to the board by and with the advice and consent of the senate when a vacancy thereon occurs either by the expiration of a term or otherwise; provided, however, that any board member shall serve until his or her successor is appointed and has qualified. Each appointee, except where appointed to fill an unexpired term, shall be appointed for a term of five years. The president of the Missouri Dental Association in office at the time shall, at least ninety days prior to the expiration of the term of a board member other than the dental hygienist or public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five dentists 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 Dental Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

4. 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 list of dentists submitted to the governor shall include the names submitted to the director of the division of professional registration by the president of the Missouri Dental Association. This list shall be a public record available for inspection and copying under chapter 610.** Lists of dental hygienists submitted to the governor may include names submitted to the director of the division of professional registration by the president of the Missouri Dental Hygienists' Association. The duties of the dental hygienist member shall not include participation in the determination for or the issuance of a certificate of registration or a license to practice as a dentist. 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.

5. The board shall have a seal which shall be in circular form and which shall impress the word "SEAL" in the center and around said word the words "Missouri Dental Board". The seal shall be affixed to such instruments as hereinafter provided and to any other instruments as the board shall direct.

6. The board may sue and be sued as the Missouri dental board, and its members need not be named as parties. Members of the board shall not be personally liable, either jointly or severally, for any act or acts committed in the performance of their official duties as board members; nor shall any board member be personally liable for any court costs which accrue in any action by or against 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 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 list of medical physicians or osteopathic physicians submitted to the governor shall include the names submitted to the director of the division of professional registration by the president of the Missouri State Medical Association or the Missouri Association of Osteopathic Physicians and Surgeons, respectively. This list shall be a public record available for inspection and copying under chapter 610.** 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.

344.060. BOARD CREATED — MEMBERSHIP, QUALIFICATIONS, TERMS, REMOVED HOW, HEARING. — 1. The **[**director of the department of health and senior services**] governor** shall appoint **with the advice and consent of the senate** ten suitable persons who together with the director 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 344.108.

2. In addition to the director of the department of health and senior services or 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**] governor** for misconduct, incompetency or neglect **[**to**] of** duty after first being given an opportunity to be heard in his or her own behalf.

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 as provided by rule, made payable to the 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 as provided by rule, made payable to the 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.

361.070. DIRECTOR AND EMPLOYEES — OATH — BOND — PROHIBITED ACTS — POWERS OF DIRECTOR. — 1. The director of finance and all employees of the division of finance, which term shall, for purposes of this section and section 361.080, include special agents, shall, before entering upon the discharge of their duties, take the oath of office prescribed by the constitution, and, in addition, take an oath that they will not reveal the conditions or affairs of any financial institution or any facts pertaining to the same, that may come to their knowledge by virtue of their official positions, unless required by law to do so in the discharge of the duties of their offices or when testifying in any court proceeding. For purposes of this section and section 361.080, "financial institution" shall mean any entity subject to chartering, licensing, or regulation by the division of finance.

2. The director of finance and all employees of the division of finance shall further execute to the state of Missouri good and sufficient bonds with corporate surety, to be approved by the governor and attorney general, conditioned that they will faithfully and impartially discharge the duties of their offices, and pay over to the persons entitled by law to receive it, all money coming into their hands by virtue of their offices. The principal amount of bond applicable to each employee shall be determined by the state banking **and savings and loan** board. The bond, after approval by the governor and attorney general, shall be filed with the secretary of state for safekeeping. The bond premiums, not to exceed one percent on the amount thereof, shall be paid out of the state treasury in the same manner as other expenses of the division.

3. Neither the director of finance nor any employees of the division of finance who participate in the examination of any bank or trust company, or who may be called upon to make any official decision or determination affecting the operation of any bank or trust company, other than the **[**banker**]** members of the state banking **and savings and loan** board **who are required to have experience managing a bank or association as defined in chapter 369**, shall be an officer, director, attorney, owner, or holder of stock in any bank or trust company or any bank holding company as that term is defined in section 362.910, nor shall they receive, directly or indirectly, any payment or gratuity from any such organization, nor engage in the negotiation of loans for others with any state bank or trust company, nor be indebted to any state bank or trust company.

4. The director of finance, in connection with any examination or investigation of any person, company, or event, shall have the authority to compel the production of documents, in whatever form they may exist, and shall have the authority to compel the attendance of and administer oaths to any person having knowledge of any issue involved with the examination or investigation. The director may seek judicial enforcement of an administrative subpoena by application to the appropriate court. An administrative subpoena shall be subject to the same defenses or subject to a protective order or conditions as provided and deemed appropriate by the court in accordance with the Missouri Supreme Court Rules.

361.092. STATE BANKING AND SAVINGS AND LOAN BOARD CREATED. — There is hereby created a "State Banking **and Savings and Loan** Board" which shall have such powers and duties as are conferred upon it by law. The state banking **and savings and loan** board with all of its powers, duties, and functions is assigned by type III transfer under the authority of the Omnibus State Reorganization Act of 1974 **[**and executive order 06-04**]** to the department of insurance, financial institutions and professional registration.

361.093. BOARD TO ADVISE AND RECOMMEND. — The state banking **and savings and loan** board shall advise **[**with**]** the director of finance as to the proper administration of his office and the banking laws of this state and make recommendations to the general assembly as to changes in these laws.

361.094. BOARD TO DETERMINE APPEALS — PROCEDURE — HEARING OFFICER AUTHORIZED. — 1. The state banking **and savings and loan** board shall with reasonable

promptness hear and by order determine all appeals permitted by law from refusals of the director of finance to grant certificates of incorporation to the proposed incorporators of banks, from refusals of the director of finance to issue certificates permitting changes in the articles of agreement of banks to provide for the relocation of these banks in other communities, from refusals of the director of finance to grant certificates of incorporation to the proposed incorporators of trust companies, and from refusals of the director of finance to issue certificates permitting changes in the articles of agreement of trust companies to provide for the relocation of these trust companies in other communities.

2. The state banking **and savings and loan** board shall hear and by order determine an appeal from the action of the director granting the incorporation or relocation of a bank or trust company upon application filed within ten days after the director's action by a bank, trust company, national banking association or other persons claiming to be adversely affected thereby. The application shall state the grounds upon which it is alleged that the action of the director should be stayed, reversed or altered. In reviewing an application for appeal, the board shall have access to all of the records and information used by the director in making his decision. A decision shall be rendered on the appeal within ninety days from the date of the application for appeal.

3. The board shall establish such rules as may be necessary to give effect to the provisions of this section. The rules may provide that the board or the chairman of the board may delegate responsibility for the conduct of investigations and the hearing of appeals provided under any section of this law to a member of the board or to a hearing officer designated by the board. Such hearing officer shall have the power to administer oaths, subpoena witnesses, compel the production of records pertinent to any hearing, and take any action in connection with such hearing which the board itself is authorized to take by law other than making the final decision and appropriate order. When the hearing has been completed, the individual board member or the hearing officer who conducted the hearing shall prepare a summary thereof and recommend a findings of fact, conclusions of law, decision and appropriate order for approval of the board. The board may adopt such recommendations in whole or in part, require the production of additional testimony, reassign the case for rehearing, or may itself conduct such new or additional hearing as is deemed necessary prior to rendering a final decision.

361.095. PROCEDURE ON APPEALS — COSTS — PARTIES — JUDICIAL REVIEW. — 1. The state banking **and savings and loan** board shall make rules and regulations, consistent with applicable law, for the proceedings in connection with the appeals provided for in section 361.094. 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.

2. The costs of the appeal shall be assessed against the losing party, and the board may require the deposit of a reasonable sum for the payment of costs at the time the appeal is brought.

3. At any hearing provided for in section 361.094 the director of the division of finance shall be deemed a party, and any person claiming to be adversely affected and any bank, trust company or national banking association located in the city or town and county in which the proposed bank or trust company is to be located upon incorporation or relocation may intervene.

4. The director of the division of finance shall act in accordance with any order of the state banking **and savings and loan** board made pursuant to section 361.094, but the order of the board shall be subject to judicial review as provided by law. Whether or not any review shall operate as a stay of the board's order shall be determined by the board.

361.096. BOARD MAY SUBPOENA WITNESSES AT HEARINGS — OATHS — ENFORCEMENT OF SUBPOENA OR TESTIMONY. — 1. At any hearing provided for in section 361.094, the state banking **and savings and loan** board, or any member thereof, shall have power to administer oaths.

2. In connection with any such hearing, the board, or any member thereof, shall issue subpoenas and subpoenas duces tecum on the board's own motion or at the request of any intervenor or other party, which subpoenas or subpoenas duces tecum shall extend to all parts of the state and shall be signed by the secretary of the board or by any other member thereof. The board shall have power, on motion after due notice, for good cause to quash or modify any subpoena or subpoena duces tecum on the grounds that the same is unduly burdensome, unreasonable or oppressive. Subpoenas and subpoenas duces tecum may be served as in the case of subpoenas in civil actions in the circuit court and each witness who shall appear before the board in obedience to a subpoena or subpoena duces tecum shall receive for his attendance the fees and mileage provided for witnesses in civil actions in the circuit court, which shall be paid by the party at whose instance such subpoena or subpoena duces tecum was issued. In case of refusal of a witness to obey any such subpoena or subpoena duces tecum, or to testify when lawfully required to do so, the board may apply to a judge of the circuit court of the county of the hearing or of any county where the witness resides or may be found, for an order upon such witness to show cause why such subpoena or subpoena duces tecum should not be enforced, or the witness required to give such testimony, which said order and a copy of the application therefor shall be served upon the witness in the same manner as a summons in a civil action, and if said circuit court shall, after a hearing, determine that the subpoena or subpoena duces tecum should be sustained and enforced, or that the witness should be required to give such testimony, said court shall make an order to enforce such subpoena or subpoena duces tecum, or compel such testimony and may enforce such order as in the case of a subpoena or subpoena duces tecum, or refusal to testify, in a civil action in the circuit court.

361.097. BOARD MEMBERS, APPOINTMENT, QUALIFICATIONS, TERMS. — 1. The state banking **and savings and loan** board shall consist of five members who shall be appointed by the governor, the senate concurring. No person shall be eligible for appointment unless he **[**shall be**] or she is** a resident of this state. One member shall be an attorney at law and a member of the Missouri Bar in good standing. Two members shall each have had at least **[**ten years'**] five years of active bank management** experience in this state **[**as an officer or director or partly as an officer and partly as a director of one or more state banks or trust companies or national banking associations, of which at least five years shall have been full-time, active bank management experience**]**. **One member shall have had at least five years of active management experience in this state of one or more associations as defined in chapter 369. [**The two other members**] One member** shall be **[**nonbankers**] an individual who is not involved in the administration of a financial institution**. Not more than three members of the board shall be members of the same political party. **[**The term of office of the board first appointed shall in the case of one member be two years; in the case of two members shall be four years; and in the case of the other two members shall be six years; with all said terms beginning August 29, 1955. All subsequent terms shall be for a term of six years from the expiration of the preceding term. The governor shall designate one member as chairman and another member as secretary of the board.**]**

2. The term of office of each member of the state banking and savings and loan board shall be six years. The board shall select its own chairman and secretary. The members of the state banking **and savings and loan** board shall hold office for the respective terms for which they are appointed and until their successors shall qualify. Vacancies **[**in said**] on such** board shall be filled by appointment for the unexpired term in the same manner as in the case of an original appointment.

361.098. BOARD MEMBERS, COMPENSATION — QUORUM OF BOARD — MEETINGS — SEAL. — 1. The members of the state banking **and savings and loan** board shall receive as compensation for their services the sum of one hundred dollars per day while discharging their

duties, and shall be entitled to receive their necessary traveling and other expenses incurred while actually engaged in the performance of their duties as such members.

2. A majority of the members of the board shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power of the board.

3. The board may meet and exercise its powers in any place in this state and shall meet at any time upon the call of its chairman or of the director of the division of finance or of any two members of the board.

4. The board shall have an official seal bearing the inscription, "State Banking **and Savings and Loan** Board of the State of Missouri", which shall be judicially noticed.

361.105. DIRECTOR OF FINANCE AUTHORIZED TO ISSUE RULES WITH APPROVAL OF STATE BANKING AND SAVINGS AND LOAN BOARD — RULEMAKING PROCEDURE. — 1. The director of finance, with the approval of the state banking **and savings and loan** board, shall have power to adopt, promulgate, amend and repeal rules and regulations necessary or desirable to carry out the duties assigned to the division by law relating to banks and trust companies and which are not inconsistent with the constitution or laws of this state. A copy of every rule and regulation shall be mailed to each bank and trust company, postage prepaid, at least fifteen days in advance of its effective date; except that the failure of a bank or trust company to receive a copy of a rule or regulation shall not exempt it from the duty of compliance with a rule or regulation lawfully promulgated hereunder. The director, in the exercise of the power to make rules and regulations hereunder, shall act in the interests of promoting and maintaining a sound banking system and sound trust companies, the security of deposits and depositors and other customers, the preservation of the liquid position of banks and in the interest of preventing injurious credit expansions and contractions.

2. 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.

362.040. NOTICE OF REFUSAL OF CERTIFICATE — APPEAL. — In case the director shall not be satisfied, as the result of the examination, that the character, responsibility and general fitness of the persons named in the articles of agreement are up to the standard above provided, or that the convenience and needs of the community to be served justify and warrant the opening of the new bank or trust company therein, or that the probable volume of business in such locality is sufficient to insure and maintain the solvency of the new bank and the solvency of the then existing banks or trust companies in the locality, without endangering the safety of any bank or trust company in the locality as a place of deposit of public and private moneys; and on these accounts or any one of them shall refuse to grant the certificate of incorporation, **[**he**] the director** shall forthwith give notice thereof to the proposed incorporators from whom the articles of agreement were received, who, if they so desire, may within ten days thereafter appeal from the refusal to the state banking **and savings and loan** board.

[362.105. POWERS AND AUTHORITY OF BANKS AND TRUST COMPANIES. — 1. Every bank and trust company created under the laws of this state may for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute:

(1) Conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or without allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or personal property, and upon collateral of personal security at a rate of interest not exceeding that allowed by law, and also of buying, investing in, selling and discounting negotiable and nonnegotiable paper of all kinds, including bonds as well as all kinds of commercial paper; and for all loans and discounts made, the corporation may receive and retain the interest in advance;

(2) Accept for payment, at a future date, drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not exceeding one year; provided, that no bank or trust company shall incur liabilities under this subdivision to an amount equal at any time in the aggregate to more than its paid-up and unimpaired capital stock and surplus fund, except with the approval of the director under such general regulations as to amount of acceptances as the director may prescribe;

(3) Purchase and hold, for the purpose of becoming a member of a Federal Reserve Bank, so much of the capital stock thereof as will qualify it for membership in the reserve bank pursuant to an act of Congress, approved December 23, 1913, entitled "The Federal Reserve Act" and any amendments thereto; to become a member of the Federal Reserve Bank, and to have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any member by the Federal Reserve Act and any amendments thereto. The member bank or trust company and its directors, officers and stockholders shall continue to be subject, however, to all liabilities and duties imposed upon them by any law of this state and to all the provisions of this chapter relating to banks or trust companies;

(4) Subscribe for and purchase such stock in the Federal Deposit Insurance Corporation and to make such payments to and to make such deposits with the Federal Deposit Insurance Corporation and to pay such assessments made by such corporation as will enable the bank or trust company to obtain the benefits of the insurance of deposits under the act of Congress known as "The Banking Act of 1933" and any amendments thereto;

(5) Invest in a bank service corporation as defined by the act of Congress known as the "Bank Service Corporation Act", Public Law 87-856, as approved October 23, 1962, to the same extent as provided by that act or any amendment thereto;

(6) Hold a noncontrolling equity interest in any business entity that conducts only activities that are financial in nature or incidental to financial activity or that is established pursuant to subdivision (16) of this subsection where the majority of the stock or other interest is held by Missouri banks, Missouri trust companies, national banks located in Missouri, or any foreign bank with a branch or branches in Missouri, or any combination of these financial institutions; provided that if the entity is defined pursuant to Missouri law as any type of financial institution subsidiary or other type of entity subject to special conditions or regulations, those conditions and regulations shall remain applicable, and provided that such business entity may be formed as any type of business entity, in which each investor's liability is limited to the investment in and loans to the business entity as otherwise provided by law;

(7) Receive upon deposit for safekeeping personal property of every description, and to own or control a safety vault and rent the boxes therein;

(8) Purchase and hold the stock of one safe deposit company organized and existing under the laws of the state of Missouri and doing a safe deposit business on premises owned or leased by the bank or trust company at the main banking house and any branch operated by the bank or trust company; provided, that the purchasing and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the safe deposit company shall be purchased and held, and shall not be sold or transferred except as a whole and not be pledged at all, all sales or transfers or pledges in violation hereof to be void;

(9) Act as the fiscal or transfer agent of the United States, of any state, municipality, body politic or corporation and in such capacity to receive and disburse money, to transfer, register and countersign certificates of stock, bonds and other evidences of indebtedness;

(10) Acquire or convey real property for the following purposes:

(a) Real property conveyed to it in satisfaction or part satisfaction of debts previously contracted in the course of its business; and

(b) Real property purchased at sales under judgment, decrees or liens held by it;

(11) Purchase, hold and become the owner and lessor of personal property acquired upon the specific request of and for use of a customer; and, in addition, leases that neither anticipate full purchase price repayment on the leased asset, nor require the lease to cover the physical life of the asset, other than those for motor vehicles which will not be used by bank or trust company personnel, and may incur such additional obligations as may be incident to becoming an owner and lessor of the property, subject to the following limitations:

(a) Lease transactions do not result in loans for the purpose of section 362.170, but the total amount disbursed under leasing obligations or rentals by any bank to any person, partnership, association, or corporation shall at no time exceed the legal loan limit permitted by statute except upon the written approval of the director of finance;

(b) Lease payments are in the nature of rent rather than interest, and the provisions of chapter 408 are not applicable;

(12) Contract with another bank or trust company, bank service corporation or other partnership, corporation, association or person, within or without the state, to render or receive services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, financial counseling, or similar services, or the storage, transmitting or processing of any information or data; except that, the contract shall provide, to the satisfaction of the director of finance, that the party providing such services to a bank or trust company will be subject to regulation and examination to the same extent as if the services were being performed by the bank or trust company on its own premises. This subdivision shall not be deemed to authorize a bank or trust company to provide any customer services through any system of electronic funds transfer at places other than bank premises;

(13) Purchase and hold stock in a corporation whose only purpose is to purchase, lease, hold or convey real property of a character which the bank or trust company holding stock in the corporation could itself purchase, lease, hold or convey pursuant to the provisions of paragraph (a) of subdivision (10) of this subsection; provided, the purchase and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the corporation shall be purchased and held by the bank or trust company and shall not be sold or transferred except as a whole;

(14) Purchase and sell investment securities, without recourse, solely upon order and for the account of customers; and establish and maintain one or more mutual funds and offer to the public shares or participations therein. Any bank which engages in such activity shall comply with all provisions of chapter 409 regarding the licensing and registration of sales personnel for mutual funds so offered, provided that such banks shall register as a broker-dealer with the office of the commissioner of securities and shall consent to supervision and inspection by that office and shall be subject to the continuing jurisdiction of that office;

(15) Make debt or equity investments in corporations or projects, whether for profit or not for profit, designed to promote the development of the community and its welfare, provided that the aggregate investment in all such corporations and in all such projects does not exceed five percent of the unimpaired capital of the bank, and provided that this limitation shall not apply to loans made under the authority of other provisions of law, and other provisions of law shall not limit this subdivision;

(16) Offer through one or more subsidiaries any products and services which a national bank may offer through its financial subsidiaries, subject to the limitations that are applicable to national bank financial subsidiaries, and provided such bank or trust company meets the division of finance safety and soundness considerations. This subdivision is enacted to provide in part competitive equality with national banks' powers under the Gramm-Leach-Bliley Act of 1999, Public Law 106-102.

2. In addition to the power and authorities granted in subsection 1 of this section, and notwithstanding any limitations therein, a bank or trust company may:

(1) Purchase or lease, in an amount not exceeding its legal loan limit, real property and improvements thereto suitable for the convenient conduct of its functions. The bank may derive income from renting or leasing such real property or improvements or both. If the purchase or lease of such real property or improvements exceeds the legal loan limit or is from an officer, director, employee, affiliate, principal shareholder or a related interest of such person, prior approval shall be obtained from the director of finance; and

(2) Loan money on real estate and handle escrows, settlements and closings on real estate for the benefit of the bank's customers, as a core part of the banking business, notwithstanding any other provision of law to the contrary.

3. In addition to the powers and authorities granted in subsection 1 of this section, every trust company created under the laws of this state shall be authorized and empowered to:

(1) Receive money in trust and to accumulate the same at such rate of interest as may be obtained or agreed upon, or to allow such interest thereon as may be prescribed or agreed;

(2) Accept and execute all such trusts and perform such duties of every description as may be committed to it by any person or persons whatsoever, or any corporation, and act as assignee, receiver, trustee and depositary, and to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to it by order, judgment or decree of any courts of record of this state or other states, or of the United States;

(3) Take, accept and hold, by the order, judgment or decree of any court of this state, or of any other state, or of the United States, or by gift, grant, assignment, transfer, devise or bequest of any person or corporation, any real or personal property in trust, and to execute and perform any and all the legal and lawful trusts in regard to the same upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon in and by the order, judgment, decree, gift, grant, assignment, transfer, devise or bequest;

(4) Buy, invest in and sell all kinds of stocks or other investment securities;

(5) Execute, as principal or surety, any bond or bonds required by law to be given in any proceeding, in law or equity, in any of the courts of this state or other states, or of the United States;

(6) Act as trustee, personal representative, or conservator or in any other like fiduciary capacity;

(7) Act as attorney-in-fact or agent of any person or corporation, foreign or domestic, in the management and control of real or personal property, the sale or conveyance of same, the investment of money, and for any other lawful purpose.

4. (1) In addition to the powers and authorities granted in this section, the director of finance may, from time to time, with the approval of the state banking board, issue orders granting such other powers and authorities as have been granted to financial institutions subject to the supervision of the federal government to:

(a) State-chartered banks and trust companies which are necessary to enable such banks and trust companies to compete;

(b) State-chartered banks and trust companies to establish branches to the same extent that federal law permits national banks to establish branches;

(c) Subsidiaries of state-chartered banks and trust companies to the same extent powers are granted to national bank subsidiaries to enable such banks and trust companies to compete;

(d) State-chartered banks and trust companies to establish trust representative offices to the same extent national banks are permitted such offices.

(2) The orders shall be promulgated as provided in section 361.105 and shall not be inconsistent with the constitution and the laws of this state.

5. As used in this section, the term "subsidiary" shall include one or more business entities of which the bank or trust company is the owner, provided the owner's liability is limited by the investment in and loans to the subsidiary as otherwise provided for by law.

6. A bank or trust company to which authority is granted by regulation in subsection 4 of this section, based on the population of the political subdivision, may continue to exercise such authority for up to five years after the appropriate decennial census indicates that the population of the town in which such bank or trust company is located has exceeded the limits provided for by regulation pursuant to subsection 4 of this section.**]**

362.105. POWERS AND AUTHORITY OF BANKS AND TRUST COMPANIES. — 1. Every bank and trust company created under the laws of this state may for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute:

(1) Conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or without allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or personal property, and upon collateral of personal security at a rate of interest not exceeding that allowed by law, and also of buying, investing in, selling and discounting negotiable and nonnegotiable paper of all kinds, including bonds as well as all kinds of commercial paper; and for all loans and discounts made, the corporation may receive and retain the interest in advance;

(2) Accept for payment, at a future date, drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not exceeding one year; provided, that no bank or trust company shall incur liabilities under this subdivision to an amount equal at any time in the aggregate to more than its paid-up and unimpaired capital stock and surplus fund, except with the approval of the director under such general regulations as to amount of acceptances as the director may prescribe;

(3) Purchase and hold, for the purpose of becoming a member of a Federal Reserve Bank, so much of the capital stock thereof as will qualify it for membership in the reserve bank pursuant to an act of Congress, approved December 23, 1913, entitled "The Federal Reserve Act" and any amendments thereto; to become a member of the Federal Reserve Bank, and to have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any member by the Federal Reserve Act and any amendments thereto. The member bank or trust company and its directors, officers and stockholders shall continue to be subject, however, to all liabilities and duties imposed upon them by any law of this state and to all the provisions of this chapter relating to banks or trust companies;

(4) Subscribe for and purchase such stock in the Federal Deposit Insurance Corporation and to make such payments to and to make such deposits with the Federal Deposit Insurance Corporation and to pay such assessments made by such corporation as will enable the bank or trust company to obtain the benefits of the insurance of deposits under the act of Congress known as "The Banking Act of 1933" and any amendments thereto;

(5) Invest in a bank service corporation as defined by the act of Congress known as the "Bank Service Corporation Act", Public Law 87-856, as approved October 23, 1962, to the same extent as provided by that act or any amendment thereto;

(6) Hold a noncontrolling equity interest in any business entity that conducts only activities that are financial in nature or incidental to financial activity or that is established pursuant to subdivision (16) of this subsection where the majority of the stock or other interest is held by Missouri banks, Missouri trust companies, national banks located in Missouri, or any foreign bank with a branch or branches in Missouri, or any combination of these financial institutions; provided that if the entity is defined pursuant to Missouri law as any type of financial institution subsidiary or other type of entity subject to special conditions or regulations, those conditions and regulations shall remain applicable, and provided that such business entity may be formed as any type of business entity, in which each investor's liability is limited to the investment in and loans to the business entity as otherwise provided by law;

(7) Receive upon deposit for safekeeping personal property of every description, and to own or control a safety vault and rent the boxes therein;

(8) Purchase and hold the stock of one safe deposit company organized and existing under the laws of the state of Missouri and doing a safe deposit business on premises owned or leased by the bank or trust company at the main banking house and any branch operated by the bank or trust company; provided, that the purchasing and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the safe deposit company shall be purchased and held, and shall not be sold or transferred except as a whole and not be pledged at all, all sales or transfers or pledges in violation hereof to be void;

(9) Act as the fiscal or transfer agent of the United States, of any state, municipality, body politic or corporation and in such capacity to receive and disburse money, to transfer, register and countersign certificates of stock, bonds and other evidences of indebtedness;

(10) Acquire or convey real property for the following purposes:

(a) Real property conveyed to it in satisfaction or part satisfaction of debts previously contracted in the course of its business; and

(b) Real property purchased at sales under judgment, decrees or liens held by it;

(11) Purchase, hold and become the owner and lessor of personal property acquired upon the specific request of and for use of a customer; and, in addition, leases that neither anticipate full purchase price repayment on the leased asset, nor require the lease to cover the physical life of the asset, other than those for motor vehicles which will not be used by bank or trust company personnel, and may incur such additional obligations as may be incident to becoming an owner and lessor of the property, subject to the following limitations:

(a) Lease transactions do not result in loans for the purpose of section 362.170, but the total amount disbursed under leasing obligations or rentals by any bank to any person, partnership, association, or corporation shall at no time exceed the legal loan limit permitted by statute except upon the written approval of the director of finance;

(b) Lease payments are in the nature of rent rather than interest, and the provisions of chapter 408 are not applicable;

(12) Contract with another bank or trust company, bank service corporation or other partnership, corporation, association or person, within or without the state, to render or receive services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, financial counseling, or similar services, or the storage, transmitting or processing of any information or data; except that, the contract shall provide, to the satisfaction of the director of finance, that the party providing such services to a bank or trust company will be subject to regulation and examination to the same extent as if the services were being performed by the bank or trust company on its own premises. This subdivision shall not be deemed to authorize a bank or trust company to provide any

customer services through any system of electronic funds transfer at places other than bank premises;

(13) Purchase and hold stock in a corporation whose only purpose is to purchase, lease, hold or convey real property of a character which the bank or trust company holding stock in the corporation could itself purchase, lease, hold or convey pursuant to the provisions of paragraph (a) of subdivision (10) of this subsection; provided, the purchase and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the corporation shall be purchased and held by the bank or trust company and shall not be sold or transferred except as a whole;

(14) Purchase and sell investment securities, without recourse, solely upon order and for the account of customers; and establish and maintain one or more mutual funds and offer to the public shares or participations therein. Any bank which engages in such activity shall comply with all provisions of chapter 409 regarding the licensing and registration of sales personnel for mutual funds so offered, provided that such banks shall register as a broker-dealer with the office of the commissioner of securities and shall consent to supervision and inspection by that office and shall be subject to the continuing jurisdiction of that office;

(15) Make debt or equity investments in corporations or projects, whether for profit or not for profit, designed to promote the development of the community and its welfare, provided that the aggregate investment in all such corporations and in all such projects does not exceed five percent of the unimpaired capital of the bank, and provided that this limitation shall not apply to loans made under the authority of other provisions of law, and other provisions of law shall not limit this subdivision;

(16) Offer through one or more subsidiaries any products and services which a national bank may offer through its financial subsidiaries, subject to the limitations that are applicable to national bank financial subsidiaries, and provided such bank or trust company meets the division of finance safety and soundness considerations. This subdivision is enacted to provide in part competitive equality with national banks' powers under the Gramm-Leach-Bliley Act of 1999, Public Law 106-102.

2. In addition to the power and authorities granted in subsection 1 of this section, and notwithstanding any limitations therein, a bank or trust company may:

(1) Purchase or lease, in an amount not exceeding its legal loan limit, real property and improvements thereto suitable for the convenient conduct of its functions. The bank may derive income from renting or leasing such real property or improvements or both. If the purchase or lease of such real property or improvements exceeds the legal loan limit or is from an officer, director, employee, affiliate, principal shareholder or a related interest of such person, prior approval shall be obtained from the director of finance; and

(2) Loan money on real estate as defined in section 442.010, and handle escrows, settlements and closings on real estate for the benefit of the bank's customers, as a core part of the banking business, notwithstanding any other provision of law to the contrary.

3. In addition to the powers and authorities granted in subsection 1 of this section, every trust company created under the laws of this state shall be authorized and empowered to:

(1) Receive money in trust and to accumulate the same at such rate of interest as may be obtained or agreed upon, or to allow such interest thereon as may be prescribed or agreed;

(2) Accept and execute all such trusts and perform such duties of every description as may be committed to it by any person or persons whatsoever, or any corporation, and act as assignee, receiver, trustee and depositary, and to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to it by order, judgment or decree of any courts of record of this state or other states, or of the United States;

(3) Take, accept and hold, by the order, judgment or decree of any court of this state, or of any other state, or of the United States, or by gift, grant, assignment, transfer, devise or bequest of any person or corporation, any real or personal property in trust, and to execute and perform any and all the legal and lawful trusts in regard to the same upon the terms, conditions,

limitations and restrictions which may be declared, imposed, established or agreed upon in and by the order, judgment, decree, gift, grant, assignment, transfer, devise or bequest;

(4) Buy, invest in and sell all kinds of stocks or other investment securities;

(5) Execute, as principal or surety, any bond or bonds required by law to be given in any proceeding, in law or equity, in any of the courts of this state or other states, or of the United States;

(6) Act as trustee, personal representative, or conservator or in any other like fiduciary capacity;

(7) Act as attorney-in-fact or agent of any person or corporation, foreign or domestic, in the management and control of real or personal property, the sale or conveyance of same, the investment of money, and for any other lawful purpose.

4. (1) In addition to the powers and authorities granted in this section, the director of finance may, from time to time, with the approval of the state banking **and savings and loan** board, issue orders granting such other powers and authorities as have been granted to financial institutions subject to the supervision of the federal government to:

(a) State-chartered banks and trust companies which are necessary to enable such banks and trust companies to compete;

(b) State-chartered banks and trust companies to establish branches to the same extent that federal law permits national banks to establish branches;

(c) Subsidiaries of state-chartered banks and trust companies to the same extent powers are granted to national bank subsidiaries to enable such banks and trust companies to compete;

(d) State-chartered banks and trust companies to establish trust representative offices to the same extent national banks are permitted such offices.

(2) The orders shall be promulgated as provided in section 361.105 and shall not be inconsistent with the constitution and the laws of this state.

5. As used in this section, the term "subsidiary" shall include one or more business entities of which the bank or trust company is the owner, provided the owner's liability is limited by the investment in and loans to the subsidiary as otherwise provided for by law.

6. A bank or trust company to which authority is granted by regulation in subsection 4 of this section, based on the population of the political subdivision, may continue to exercise such authority for up to five years after the appropriate decennial census indicates that the population of the town in which such bank or trust company is located has exceeded the limits provided for by regulation pursuant to subsection 4 of this section.

362.111. FEES AND SERVICE CHARGES PERMITTED, WHEN, CONDITIONS. — A bank or trust company may impose fees or service charges on deposit accounts; however, such fees or service charges are subject to such conditions or requirements that may be fixed by regulations pursuant to section 361.105 by the director of the division of finance and the state banking **and savings and loan** board. Notwithstanding any law to the contrary, no such condition or requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution.

362.325. CHARTER AMENDED — PROCEDURE — NOTICE — DUTY OF DIRECTOR — APPEAL. — 1. Any bank or trust company may, at any time, and in any amount, increase or, with the approval of the director, reduce its capital stock (as to its authorized but unissued shares, its issued shares, and its capital stock as represented by such issued shares), including a reduction of capital stock by reverse stock split, change its name, change or extend its business or the length of its corporate life, avail itself of the privileges and provisions of this chapter or otherwise change its articles of agreement in any way not inconsistent with the provisions of this chapter, with the consent of the persons holding a majority of the stock of the bank or trust company, which consent shall be obtained at an annual meeting or at a special meeting of the shareholders called for that purpose. A bank or trust company may, but shall not be obligated to, issue a

certificate for a fractional share, and, by action of its board of directors, may in lieu thereof, pay cash equal to the value of the fractional share.

2. The meeting shall be called and notice given as provided in section 362.044.

3. If, at any time and place specified in the notice, stockholders shall appear in person or by proxy, in number representing not less than a majority of all the shares of stock of the bank or trust company, they shall organize by choosing one of the directors **as** chairman of the meeting, and a suitable person for secretary, and proceed to a vote of those present in person or by proxy.

4. If, upon a canvass of the vote at the meeting, it is ascertained that the proposition has carried, it shall be so declared by the president of the meeting and the proceedings entered of record.

5. When the full amount of the proposed increase has been bona fide subscribed and paid in cash to the board of directors of the bank or trust company or the change has been duly authorized, then a statement of the proceedings, showing a compliance with the provisions of this chapter, the increase of capital actually subscribed and paid up or the change shall be made out, signed and verified by the affidavit of the president and countersigned by the cashier, or secretary, and such statement shall be acknowledged by the president and one certified copy filed in the public records of the division of finance.

6. Upon the filing of the certified copy the director shall promptly satisfy himself or herself that there has been a compliance in good faith with all the requirements of the law relating to the increase, decrease or change, and when he or she is so satisfied he or she shall issue a certificate that the bank or trust company has complied with the law made and provided for the increase or decrease of capital stock, and the amount to which the capital stock has been increased or decreased or for the change in the length of its corporate life or any other change provided for in this section. Thereupon, the capital stock of the bank or trust company shall be increased or decreased to the amount specified in the certificate or the length of the corporate life of the bank shall be changed or other authorized change made as specified in the certificate. The certificate, or certified copies thereof, shall be taken in all the courts of the state as evidence of the increase, decrease or change.

7. Provided, however, that if the change undertaken by the bank or trust company in its articles of agreement shall provide for the relocation of the bank or trust company in another community, the director shall make or cause to be made an examination to ascertain whether the convenience and needs of the new community wherein the bank desires to locate are such as to justify and warrant the opening of the bank therein and whether the probable volume of business at the new location is sufficient to ensure and maintain the solvency of the bank and the solvency of the then existing banks and trust companies at the location, without endangering the safety of any bank or trust company in the locality as a place of deposit of public and private moneys, and, if the director, as a result of the examination, be not satisfied in the particulars mentioned or either of them, he or she may refuse to issue the certificate applied for, in which event he or she shall forthwith give notice of his or her refusal to the bank applying for the certificate, which if it so desires may, within ten days thereafter, appeal from the refusal to the state banking **and savings and loan** board.

8. All certificates issued by the director of finance relating to amendments to the charter of any bank shall be provided to the bank or trust company and one certified copy filed in the public records of the division of finance.

9. The board of directors may designate a chief executive officer, and such officer will replace the president for purposes of this section.

369.014. DEFINITIONS. — As used in this chapter, unless the context clearly requires a different meaning, the following words and terms shall have the meanings indicated:

(1) "Account", the monetary interest of the owner thereof in the deposit capital of an association and consists of the withdrawal value of such interest;

(2) "Agency", a place of business other than the home office or a branch office at which an agent of the association transacts authorized business of the association;

(3) "Association", a savings and loan association or a savings association subject to the provisions of this chapter;

(4) **"Board", the state banking and savings and loan board established under chapter 361;**

(5) "Branch", a place of business other than the home office at which is transacted authorized business of the association;

[(5)**] (6)** "Capital", the capital stock and any other capital contributions in a capital stock association;

[(6)**] (7)** "Capital stock", shares of nonwithdrawable capital issued by a capital stock association which may be issued as permitted under chapter 351;

[(7)**] (8)** "Capital stock association", an association which issues capital stock;

[(8) "Commission", the state savings and loan commission;**]**

(9) "County" includes the city of St. Louis;

(10) "Deposit capital", the aggregate of deposits in accounts plus earnings credited thereto less lawful deductions therefrom;

(11) "Director of the division of finance", the chief officer of the division of finance;

(12) "Earnings", that part of the net income of an association which is payable to or credited to the owners of accounts. Earnings do not include capital stock, dividends paid or payable on capital stock or other distributions thereon. Earnings also may be referred to as interest;

(13) "Federal association" or "federal savings association", an association chartered by the Office of Thrift Supervision or any successor thereto as provided in section 5 of the Home Owners Loan Act of 1933, as amended;

(14) "Foreign association", any association or federal association with its principal office located outside Missouri;

(15) "Foreign holding company", any company or corporation authorized or existing under the laws of any jurisdiction or authority other than Missouri which directly or indirectly controls a foreign association;

(16) "Home office", the location named in the articles of incorporation or the new location in place thereof approved by the director of the division of finance. If no location is named in the articles of incorporation, the association shall file with the director of the division of finance the location of its home office;

(17) "Impaired condition", the inability of an association to pay its debts as they become due in the usual course of its business;

(18) "Insured association", an association the accounts of which are insured, fully or in part, as provided in this chapter;

(19) "Liquid assets", cash on hand and on deposit with banks including federal home loan banks and such other assets as may be so designated from time to time by the director of the division of finance;

(20) "Member", a person owning an account of a mutual association or a person borrowing from or assuming or obligated upon or owning property securing a loan held by a mutual association;

(21) "Mutual association", an association not having capital stock;

(22) "Office", any place at which business of the association is conducted on a regular and continuing basis;

(23) "Person", any individual, corporation, entity, voting trust, business trust, partnership, association, syndicate, or organized group of persons whether incorporated or not;

(24) "Security instrument", mortgage, deed of trust, or other instrument in which real or personal property is security for a debt;

(25) "Stockholder", a person owning capital stock of a capital stock association;

(26) "Withdrawal value", the amount deposited in an account in an association plus earnings credited thereto less lawful deductions therefrom.

369.024. DIRECTOR TO APPROVE OR DENY PETITION — TENTATIVE APPROVAL — PROTEST, HOW FILED — FINAL APPROVAL, EFFECT OF. — 1. Upon receipt of a petition for certificate of incorporation, the director of the division of finance shall, based upon the petition and all supporting information and upon such independent investigation and examination as the director may make, either refuse the petition or tentatively approve it. The petition shall be refused if the director of the division of finance finds that the proposed association is to be formed for any other than legitimate savings and loan purposes, or that the character and general fitness of the incorporators, or of the initial stockholders, if any, are not such as to command public confidence, or that the proposed directors and officers are not such as to tend to the success of the proposed association, or that the public convenience and advantage will not be promoted by its establishment, or that there is no public need for, or the volume of business in the location is insufficient to justify, another association. The refusal shall be in writing with the reasons therefor stated and shall be sent by registered mail to the chairman of incorporators.

2. If the director of the division of finance tentatively approves the petition, the director shall give written notice to each association and each federal association with an office in the county or in a county adjoining the county in which the proposed association is to be located, stating the name of the proposed association, where it proposes to establish the principal office of the association and that a petition for certificate of incorporation has been approved tentatively. Any association entitled to receive notice may within thirty days from the date of mailing of the notice make written protest to the director of the division of finance against the granting of the petition for incorporation. If no protest is filed within that time, the director of the division of finance shall make a final decision upon the petition either denying or granting the petition and notice thereof shall be sent by registered mail to the chairman of incorporators.

3. If a protest is filed, the director of the division of finance shall, if requested, and may on the director's own motion, conduct a hearing not less than ten nor more than thirty days following the end of the time for protest. Upon application of any party for good cause, or upon the director of the division of finance's own motion, the date of the hearing may be postponed. Notice shall be given stating the time and place of the hearing to the chairman of incorporators and to each protesting party. Any interested person may appear at the hearing in person or by counsel and offer any relevant evidence. Following the hearing the director of the division of finance shall deny or grant the petition and give written notice of the director's decision to all interested parties.

4. The petition shall not be granted, either with or without the hearing provided for in this section, except upon affirmative findings from all the evidence that the requirements of sections 369.010 to 369.369 have been complied with and that:

(1) The persons named in the petition are citizens of the United States of good character and responsibility; and

(2) There is a necessity for the proposed association in the area to be served by it; and

(3) There is a reasonable probability of usefulness and success of the proposed association; and

(4) The proposed association can be established without undue injury to any properly conducted association or federal association.

5. The director of the division of finance may, either with or without the hearing provided for in this section, and the **state banking and** savings and loan **[**commission**] board** may upon an appeal from the ruling of the director of the division of finance, require as a condition of approving the petition that the proposed association obtain a firm commitment for insurance of its accounts from the Federal Deposit Insurance Corporation or any successor thereto or from any agency of this state insuring savings accounts or from any other insurer approved by the director of the division of finance.

6. If the petition is approved, the director of the division of finance shall, upon receipt of the sworn statement of the chairman of incorporators that the initial savings accounts and the expense fund provided for in sections 369.010 to 369.369 have been paid in full in cash, or, if a capital stock association, all subscriptions for capital stock have been paid in full, certify the approval of the petition in writing to the secretary of state and deliver to the secretary of state the incorporation fee and **[**two copies**] one copy** of the articles of incorporation. From the time of such approval, the association shall be subject to all provisions of sections 369.010 to 369.369 and to supervision and control by the director of the division of finance. The secretary of state shall thereupon issue the certificate of incorporation.

369.144. POWERS OF AN ASSOCIATION. — Each association incorporated pursuant to or operating under the provisions of sections 369.010 to 369.369 has all the powers enumerated, authorized, and permitted by sections 369.010 to 369.369 and such other rights, privileges, and powers as may be incidental to or reasonably necessary to exercise such powers granted herein. Among others, and except as otherwise limited by the provisions of sections 369.010 to 369.369, each association has the following powers:

(1) To have perpetual existence; to adopt and use a corporate seal, which may be affixed by imprint, facsimile, or otherwise; and to adopt and amend bylaws as provided in sections 369.010 to 369.369;

(2) To sue and be sued, complain and defend in any court of law or equity;

(3) To acquire, hold, sell, dispose of and convey real and personal property; and to mortgage, pledge, or lease any real or personal property in the exercise of the powers granted herein; provided, however, that such leasing activities are limited to the extent permitted a federal association;

(4) To borrow from sources, individual or corporate. All such loans and advances may be secured by property of the association, and may be evidenced by such notes, bonds, debentures, or other obligations or securities as the director of the division of finance may authorize for all associations;

(5) To obtain and maintain insurance of its accounts by the Federal Deposit Insurance Corporation or any successor thereto, or by any agency of this state insuring accounts in associations, or by any other insurer approved by the director of the division of finance, and may comply with conditions necessary to obtain and maintain such insurance;

(6) To qualify as and become a member of a Federal Home Loan Bank;

(7) In addition to the powers and authorities granted in this section, the director of the division of finance may, from time to time, with the approval of the **[**commission**] state banking and savings and loan board**, issue regulations granting such other powers and authorities as have been granted to federal associations subject to the supervision of the Office of Thrift Supervision or any successor thereto which are necessary to enable associations to compete. The regulations shall be promulgated as provided in this chapter and shall not be inconsistent with the constitution and laws of this state;

(8) To appoint officers, agents, and employees as its business shall require and to provide them suitable compensation; to enter into employment contracts not to exceed five years in duration; to provide for life, health and casualty insurance for officers, employees and directors who are not officers, and to adopt and operate reasonable bonus plans, retirement benefits and deferred compensation plans for such officers and employees; to adopt and operate stock option and similar incentive compensation programs by capital stock associations; and to provide for indemnification of its officers, employees and directors as prescribed or permitted by sections 369.010 to 369.369 whether by insurance or otherwise;

(9) To become a member of, deal with, or make reasonable payments or contributions to any organization to the extent that such organization assists in furthering or facilitating the association's purposes, powers or community responsibilities, and to comply with any reasonable conditions of eligibility;

(10) To sell money orders, travel checks and similar instruments drawn by it on its commercial bank accounts, accounts it has with the district Federal Home Loan Bank or as agent for any organization empowered to sell such instruments through agents within the state;

(11) When an association is a member of a Federal Home Loan Bank, to act as fiscal agent of the United States, and, when so designated by the Secretary of the Treasury, to perform, under such regulations as the Secretary may prescribe, all such reasonable duties as fiscal agents for the United States as the Secretary may require; and to act as agent for any instrumentality of the United States and as agent of this state or any instrumentality thereof;

(12) To service loans and investments for others;

(13) When an association is insured, to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1954 as amended, if the funds of such trust are invested only in accounts or deposits in such association or in obligations or securities issued by such association. All funds held in such fiduciary capacity by any such association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this subdivision;

(14) To act as agent for others in any transaction incidental to the operation of its business;

(15) To accept deposits, and to lend and invest its funds as provided in sections 369.010 to 369.369;

(16) To use abbreviations, words or symbols in connection with any document of any nature and on checks, proxies, notices and other instruments, which abbreviations, words, or symbols shall have the same force and legal effect as though the respective words and phrases for which they stand were set forth in full;

(17) To act as custodian or keeper of microfilm records of other savings associations or place microfilm records of the association for storage and safekeeping with another association;

(18) To make donations in reasonable amounts for the public welfare or for charitable, scientific, religious, or educational purposes;

(19) To act as agent for any electric, gas, water, telephone or other public utility company operating within this state in receiving moneys due such company for utility services furnished by such company;

(20) To enter into agreements with others to supply data processing services and for the use of data processing equipment owned or controlled by the association.

369.159. FEE OR SERVICE CHARGE AUTHORIZED. — An association may impose fees or service charges on accounts; however, such fees or service charges are subject to such conditions or requirements that may be fixed by regulations pursuant to section 369.301 by the director of the division of finance and the **[**state savings and loan commission**] board**. Notwithstanding any law to the contrary, no such condition or requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution.

369.294. CERTAIN INTEREST IN AN ASSOCIATION BY DIRECTOR AND EXAMINERS PROHIBITED — INFORMATION TO BE CONFIDENTIAL, EXCEPTIONS. — 1. The director of the division of finance and examiners shall not be interested in an association directly or indirectly either as creditor (except that each may be an account holder and receive earnings thereon), director, officer, employee, trustee, attorney or borrower (except for a loan on the home property owned and occupied by the director or examiner or a share loan), nor shall any one of them receive directly or indirectly any payment, compensation or gratuity from any association.

2. The director, the examiners and all employees of the division of finance and members of the **[**state savings and loan commission**] board** shall not divulge any information acquired in the discharge of their duties except insofar as required by law or order of court. The director

may, however, furnish information to the Office of Thrift Supervision or any successor thereto, the Federal Deposit Insurance Corporation or any successor thereto, any federal home loan bank or savings departments of other states.

369.299. POWERS AND DUTIES OF DIRECTOR. — The director of the division of finance shall:

(1) Exercise all rights, powers and duties set forth in sections 369.010 to 369.369 or as may be otherwise provided by law;

(2) Establish, amend, supplement and revoke, subject to the approval of the **[**state savings and loan commission**] board**, all regulations authorized by the provisions of sections 369.010 to 369.369 and such additional regulations as may be reasonable or necessary to provide for the organization, incorporation, examination, operation, and regulation of associations, and service corporations, and the director may by regulation provide that an association shall have all powers, rights, and privileges which it would have from time to time if organized and operating in Missouri as a federal association under the laws of the United States. The director shall deliver by mail to each association a copy of any proposed regulation or change in an existing regulation. If five or more associations protest the proposed regulation or change and request a hearing thereon within fifteen days thereafter, the director shall conduct a hearing before acting thereon;

(3) Direct and supervise all the activities of the office;

(4) Exercise general supervision over all associations and all corporations which are owned in whole or in part by an association or associations;

(5) Upon request of the governor make a report in writing to the governor on or before the first day of March as to the financial condition as of December thirty-first of the preceding year of each association;

(6) Have charge of the execution of laws relating to savings associations with authority to sue in the director's name to enforce any law of this state applying to an association or to a corporation in which an association has an interest, or applying to the officers, directors or employees of any association.

369.314. POWERS AND DUTIES OF BOARD. — The **[**commission**] board** shall:

(1) Approve or disapprove each regulation proposed by the director of the division of finance pertaining to savings and loan associations; and

(2) Hear and determine any appeal **[**from**] permitted by law, including but not limited to** an order or decision of the director pertaining to the incorporation, relocation or branching of savings and loan associations**, which shall be conducted as provided in chapter 361**.

369.329. BRANCH OFFICES AND AGENCIES, APPROVAL REQUIRED, EXCEPTIONS — APPLICATION FOR APPROVAL, CONTENTS — APPROVAL, WHEN — HEARING, PROCEDURES. — No association may establish or maintain a branch office or agency without the prior written approval of the director of the division of finance, except that temporary and incidental agencies may be created for individual transactions and for special temporary purposes without such approval. Each application for approval of the establishment and maintenance of a branch office or one or more agencies shall state the proposed location of the branch office or agency, the functions to be performed at the office or agency, the estimated volume of business at the branch office or agency, the estimated annual expense of the branch office or agency and the mode of payments for the branch office or agency and such additional matters as the director of the division of finance by regulation may require. Each such application shall be accompanied by a budget of the association for the current earnings period and for the next succeeding semiannual period, which reflects the estimated additional expense of the maintenance of each such branch office or agency. No branch application shall be granted if, in the opinion of the director or a majority of the members of the **[**commission**] board** on appeal, the policies,

condition or operation of the applicant afford a basis for supervisory objection to the application. The director of the division of finance may hold a hearing at the director's discretion on the application in accordance with such procedures as the director by regulation may require.

371.060. STATE BANKING AND SAVINGS AND LOAN BOARD TO DIRECT ISSUANCE OF CERTIFICATE OF INCORPORATION, WHEN. — 1. Immediately upon the filing of the certificate of organization by the applicants, the director of finance shall submit to the state banking **and savings and loan** board the proposed articles of incorporation and the certificate of organization of the applicants and as soon as practicable thereafter the state banking **and savings and loan** board shall direct the director of finance to issue to the applicants a certificate of incorporation in such form as it may prescribe, if the board, from the best information available, determines that**:**

(1) Public convenience and necessity require the development finance corporation;

(2) The holders of the fully paid stock of the corporation are at least ten in number;

(3) That not less than two hundred fifty shares of no par value stock issued at one hundred dollars per share have been subscribed and fully paid for in cash;

(4) The bylaws and regulations submitted, if any, are in conformity with the articles of incorporation and the provisions of this chapter and not in conflict with any law of this state.

2. The director of finance shall return to the applicants one of the articles of incorporation submitted to him and shall endorse thereon the issuance by him of the certificate of incorporation.

371.090. AMENDMENT OF ARTICLES, PROCEDURE — WHEN EFFECTIVE. — 1. The articles of incorporation may be amended by a majority vote of the stockholders at any regular meeting or at a special meeting called for that purpose.

2. Articles of amendment signed by the president or vice president and attested by the secretary certifying to the amendment and its lawful adoption shall be executed, acknowledged and filed with the director of finance and, when approved by the state banking and savings and loan board, recorded with a certificate of the director of finance approving the articles of amendment, in the same manner as the original articles of incorporation. As soon as the director of finance issues his certificate of amendment the amendment is in effect.

371.240. DISSOLUTION, WHEN AUTHORIZED — PROCEDURE. — 1. Any corporation organized under this chapter, after the payment in full and cancellation of all its bonds and other obligations issued under the provisions of this chapter, or after the deposit in trust with the respective trustees designated in any deeds of trust given to secure the payment of any such obligation of a sum of money sufficient for the purpose, may dissolve by the vote of a majority of the stockholders at any regular meeting or at a special meeting called for that purpose.

2. A certificate of dissolution shall be signed by the president or vice president and attested by the secretary, certifying to the dissolution and that they have been authorized by lawful action of the stockholders to execute and file such certificate. The certificate of dissolution shall be executed, acknowledged and filed with the director of finance and, when approved by the state banking **and savings and loan** board, shall be recorded in the same manner as the original articles of incorporation. When the director has endorsed the approval of the state banking **and savings and loan** board on the certificate of dissolution the corporation is deemed to be dissolved.

3. The corporation shall, however, continue for the purpose of paying, satisfying and discharging any other existing liabilities or obligations and for collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs, and may sue and be sued in its corporate name.

4. Any assets remaining after all liabilities and obligations have been satisfied shall be distributed pro rata among the stockholders of the corporation.

536.310. AUTHORITY OF BOARD.— 1. The board shall:

(1) Provide state agencies with input regarding rules that adversely affect small businesses;

(2) Solicit input and conduct hearings from small business owners and state agencies regarding any rules proposed by a state agency; and

(3) Provide an evaluation report to the governor and the general assembly, including any recommendations and evaluations of state agencies regarding regulatory fairness for Missouri's small businesses. The report shall include comments from small businesses, state agency responses, and a summary of any public testimony on rules brought before the board for consideration.

2. In any inquiry conducted by the board because of a request from a small business owner, the board may make recommendations to the state agency.

If the board makes recommendations, such recommendations shall be based on any of the following grounds:

(1) The rule creates an undue barrier to the formation, operation, and expansion of small businesses in a manner that significantly outweighs the rule's benefits to the public; or

(2) New or significant economic information indicates the proposed rule would create an undue impact on small businesses; or

(3) Technology, economic conditions, or other relevant factors justifying the purpose for the rule has changed or no longer exists; or

(4) If the rule was adopted after August 28, 2004, whether the actual effect on small businesses was not reflected in or significantly exceeded the small business impact statement submitted prior to the adoption of the rules.

3. Subject to appropriations, by a majority vote of the board, the board may hire a one-half full-time equivalent employee for clerical support and a full-time equivalent employee with total salaries funded from the department of economic development appropriations up to one hundred fifty thousand dollars adjusted annually for inflation for professional positions to:

(1) Conduct internet website additions, corrections, and deletions;

(2) Develop training programs for agencies;

(3) Send regulatory alerts to interested small business subscribers;

(4) Track small business comments regarding agencies and review and respond to the agency and small business accordingly;

(5) Prepare for board meetings and hearings, including outreach, travel, agendas, and minutes;

(6) Prepare member maintenance expense reports and appointments;

(7) Analyze small business impact statements. After such analysis, the employee shall review such statements, offer suggestions, and work with agencies to meet the statute requirements;

(8) Analyze biannual report reviews;

(9) Conduct agency correspondence and training;

(10) Conduct small business outreach by speaking at chamber and association events;

(11) Review the Missouri Register and other sources to look for proposed rules that may affect small business.

4. Subject to appropriations, the board may receive additional funds for:

(1) Upkeep of its internet website;

(2) Information technology;

(3) Mileage for board members;

(4) Publication, printing, and distribution of annual reports;

(5) Outreach costs; and

(6) Expenses and equipment for the one and one half full time equivalent employee of the board.

5. A majority vote of the board members shall be required for the hiring, retention, and termination of board employees. All duties of board employees shall be dedicated solely to the support of and for the furtherance of the purpose and mission of the board.

620.580. CITATION OF LAW. — Sections 620.580 to 620.592 shall be known and may be cited as the "Missouri Community Service Act".

620.582. DEFINITIONS. — As used in sections 620.580 to 620.592, the following terms mean:

(1) "Act", the national and community service act of 1990, as amended;

(2) "Commission", the Missouri community service commission created by sections 620.580 to 620.592;

(3) "Community service programs", the performance of tasks designed primarily to address educational, public safety, human, or environmental needs at a local, regional, state, or multistate level;

(4) "Corporation", the corporation for national and community service authorized by the act;

(5) "National service position", a placement in a community service program whereby an individual may earn an educational award, as authorized by the act;

(6) "National service laws", the act and other federal legislation that authorizes or may authorize community service activities in states.

620.584. COMMISSION ASSIGNED TO DEPARTMENT OF ECONOMIC DEVELOPMENT — PURPOSE OF COMMISSION. — 1. The Missouri community service commission is assigned to the department of economic development.

2. The commission is established to make community service the common expectation and experience of all Missourians with a special concentration on Missouri's young people. The commission shall focus its efforts primarily on issues related to education, public safety, human needs and the environment.

3. The commission shall work to renew the ethic of civic responsibility in Missouri and to involve and enroll citizens in service opportunities that benefit Missouri while offering citizens skills that can be used to further their own plans for education, for a career, or for continuing community services. The commission shall build on the existing organizational framework of state, local, and community-based programs and agencies to expand full-time and part-time service opportunities for all citizens, but particularly Missouri's youth.

620.586. COMMISSION MEMBERS, TERMS, EXPENSES, OFFICERS, MEETINGS. — 1. The commission shall include at least fifteen, but no more than nineteen, voting members appointed by the governor with the advice and consent of the senate. The commission shall include the following voting members:

(1) A representative of local government;

(2) The commissioner of the department of elementary and secondary education or the designee of such person;

(3) An individual with experience in promoting the involvement of older adults in service and volunteerism;

(4) A representative of a national service program;

(5) An individual with expertise in the educational, training, and development needs of youth, particularly disadvantaged youth;

(6) An individual between the ages of sixteen and twenty-five years who is a participant in or supervisor of a service program for school age youth, or a campus-based or national service program;

(7) A representative of community-based agencies or organizations in the state;

(8) A representative of labor organizations;

(9) A member representing the business community;

(10) The lieutenant governor or his or her designee;

(11) A representative of the volunteer sector; and

(12) Between four and eight other members, appointed by the governor, provided that no more than twenty percent of the voting members are officers or employees of the state, and provided further that not more than fifty percent plus one of the voting members of the commission are members of the same political party.

2. The commission shall include at least one nonvoting, ex officio member who shall be a representative from the corporation for national and community service. The governor may appoint any number of other nonvoting, ex officio members who shall serve at the pleasure of the governor.

3. Appointments to the commission shall reflect the race, ethnicity, age, gender, and disability characteristics of the population of the state as a whole.

4. Voting members shall serve renewable terms of three years, except that of the first members appointed, one-third shall serve for a term of one year, one-third shall serve for a term of two years, and one-third shall serve for a term of three years. If a commission vacancy occurs, the governor shall appoint a new member to serve for the remainder of the unexpired term. Vacancies shall not affect the power of the remaining members to execute the commission's duties.

5. The members of the commission shall receive no compensation for their services on the commission, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties.

6. The voting members of the commission shall elect one of their members to serve as chairperson of the commission. The voting members may elect such other officers as deemed necessary.

7. The commission shall meet at least quarterly.

620.588. COMMISSION POWERS AND DUTIES. — 1. The commission shall have the following powers and duties:

(1) To ensure that its funding decisions meet all federal and state statutory requirements;

(2) To prepare for this state an annual national service plan that follows state and federal guidelines;

(3) To recommend innovative statewide service programs to increase volunteer participation and community-based problem solving by all age groups and among diverse participants;

(4) To utilize local, state, and federal resources to initiate, strengthen, and expand quality service programs;

(5) To promote interagency collaboration to maximize resources and develop a model of such collaboration on the state level;

(6) To oversee the application process to apply for corporation grants and funds, and for approval of service positions;

(7) To establish priorities, policies, and procedures for the use of funds received under national service laws and for funds deposited into the community service commission fund established in section 620.592;

(8) To provide technical assistance for applicants to plan and implement service programs and to apply for assistance under the national service laws;

(9) To solicit and accept gifts, contributions, grants, bequests, or other aid from any person, business, organization or foundation, public or private and from federal, state or local government or any agency of federal, state or local government.

2. The commission shall have other powers and duties in addition to those listed in subsection 1 of this section, including:

(1) To utilize staff within the department of economic development, the office of a designated statewide elected official or other executive departments as needed for this purpose; and

(2) To enter into contracts with individuals, organizations, and institutions within amounts available for this purpose.

620.590. INFORMATION SHARING AND COOPERATION — COORDINATION OF EFFORT, WHEN. — 1. All state agencies, the University of Missouri extension system, and any unit of local government, including school districts, may share information and cooperate with the commission to enable it to perform the functions assigned to it by state and federal law.

2. Any state agency that operates or plans to establish a community service program may coordinate its efforts with the commission.

620.592. FUND CREATED, USE OF MONEYS — ANNUAL REPORT. — 1. There is hereby created in the state treasury the "Community Service Commission Fund". The state treasurer shall deposit to the credit of the fund all moneys which may be appropriated to it by the general assembly and also any gifts, contributions, grants, bequests, or other aid received from federal, private, or other sources. The general assembly may appropriate moneys into the fund for the support of the commission and its activities. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund at the end of the biennium.

2. The commission shall submit an annual report of its activities to the speaker of the house of representatives, the president pro tem of the senate, and the governor before January thirty-first of each year.

620.638. DEFINITIONS. — As used in sections 620.635 to 620.653, the following terms mean:

(1) **[**"Board", the Missouri seed capital investment board, as established pursuant to section 620.641;

(2)**]** "Committed contributions", the total amount of qualified contributions that are committed to a qualifying fund by contractual agreement;

[(3)**]** **(2)** "Corporation", the Missouri technology corporation as established pursuant to section 348.251;

[(4)**]** **(3)** "Department", the department of economic development;

[(5)**]** **(4)** "Director", the director of the department of economic development;

[(6)**]** **(5)** "Follow-up capital", capital provided to a qualified business in which a qualified fund has previously invested seed capital or start-up capital. No more than forty percent of the qualified contributions to a qualified fund may be used for follow-up capital, and no qualified contributions which generate tax credits before the second round of allocations as authorized by section 620.650 shall be used for follow-up capital investments;

[(7)**]** **(6)** "Person", any individual, corporation, partnership, limited liability company or other entity, including any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143;

[(8)**]** **(7)** "Positive cash flow", total cash receipts from sales or services, but not from investments or loans, exceeding total cash expenditures as calculated on a fiscal year basis;

[(9)**]** **(8)** "Qualified business", any independently owned and operated business which is headquartered and located in Missouri and which is involved in or intends to be involved in commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce. Such a business shall

maintain its headquarters in Missouri for a period of at least three years from the date of receipt of a qualified investment or be subject to penalties pursuant to section 620.017;

[(10)**]** **(9)** "Qualified contribution", cash contributions to a qualified fund pursuant to the terms of contractual agreements made between the qualified fund and a qualified economic development organization authorized by the **[**board**]** **corporation** to enter into such contracts;

[(11)**]** **(10)** "Qualified economic development organization", any corporation organized pursuant to the provisions of chapter 355 that, as of January 1, 1991, had obtained a contract with the department to operate an innovation center to promote, assist and coordinate the research and development of new services, products or processes in this state;

[(12)**]** **(11)** "Qualified fund", a fund established by any corporation, partnership, joint venture, unincorporated association, trust or other organization established pursuant to the laws of Missouri and approved by **[**the board or**]** the corporation;

[(13)**]** **(12)** "Qualified investment", any investment of seed capital, start-up capital or follow-up capital in a qualified business that does not cause more than ten percent of all the qualified contributions to a qualified fund to be invested in a single qualified business;

[(14)**]** **(13)** "Seed capital", capital provided to a qualified business for research, development and precommercialization activities to prove a concept for a new product, process or service, and for activities related thereto; provided that, seed capital shall not be provided to any business which in a past fiscal year has experienced a positive cash flow;

[(15)**]** **(14)** "Start-up capital", capital provided to a qualified business for use in preproduction product development, service development or initial marketing thereof; provided that, start-up capital shall not be provided to any business which has experienced a positive cash flow in a past fiscal year;

[(16)**]** **(15)** "Uninvested capital", that portion of any qualified contribution to a qualified fund, other than management fees not to exceed three percent per year of committed contributions, qualified investments and other expenses or fees authorized by the **[**board**]** **corporation**, that is not invested as a qualified investment within ten years of its receipt.

620.641. TRANSFER OF BOARD DUTIES TO MISSOURI TECHNOLOGY CORPORATION. — **[**There is hereby established the "Missouri Seed Capital Investment Board", to be composed of thirteen persons. One person shall be the director, or the director's designee, and each qualified economic development organization, not to exceed four, shall respectively be represented by one member appointed by each organization. Eight members shall be appointed by the governor with the advice and consent of the senate. Of these, one shall represent a major public research university located within the state, one shall represent a major private research university located within the state and the remaining six members shall have backgrounds in technology, banking, labor or small business development. The eight members appointed by the governor shall serve terms of three years; except that, of those first appointed, three shall serve for terms of three years, three for terms of two years and two for terms of one year. The members of the board shall annually elect one of its members who has been appointed by the governor as chairman of the board. At any meeting of the board, seven members must be present to constitute a quorum. The department shall provide support services necessary to carry out the duties of the board.**]** **The powers and duties of the Missouri Seed Capital Investment Board shall be transferred to the Missouri Technology Corporation effective August 28, 2011, and the Missouri Seed Capital Investment Board shall be dissolved.**

620.644. DEVELOPMENT OF MISSOURI SEED CAPITAL AND COMMERCIALIZATION STRATEGY, REQUIRED CONTENTS — NO TAX CREDITS ISSUED UNTIL CORPORATION APPROVES STRATEGY TAX CREDIT MAXIMUM — CORPORATION TO APPROVE MANAGERS OF QUALIFIED FUNDS — RULEMAKING AUTHORITY, PROCEDURE — REPORTING REQUIREMENTS OF CORPORATION — QUALIFIED FUND TO PROVIDE ANNUAL AUDITED FINANCIAL STATEMENTS. — 1. The Missouri seed capital and commercialization strategy shall

be jointly developed and approved by the boards of directors of all of the qualified economic development organizations and submitted as one plan to the **[**board**]** **corporation** for its approval. The board shall not approve any qualified fund, exclusive of the fund approved by the corporation, unless such fund is described in the Missouri seed capital and commercialization strategy. The strategy shall include a proposal for the establishment and operation of between one and four qualified funds in Missouri, including the fund approved by the corporation pursuant to the provisions of section 620.653. The initial strategy shall be submitted to the board no later than July 1, 2000, and shall be approved or rejected by the board within three months of receipt. No tax credits authorized pursuant to the provisions of sections 620.635 to 620.653 shall be awarded until such strategy has been approved by the board, other than tax credits authorized for qualified contributions to the fund approved by the corporation.

2. The department shall authorize the use of up to twenty million dollars in tax credits by the approved qualified funds, in aggregate pursuant to the provisions of section 620.650, with not more than five million dollars of tax credits being issued in any one year.

3. The **[**board or**]** corporation shall approve the professional managers employed by the qualified funds according to criteria similar to that used by the U.S. Small Business Administration's Small Business Investment Corporation Program.

4. The department may promulgate any rules and regulations necessary to administer the provisions of sections 620.635 to 620.653. No rule or regulation or portion of a rule or regulation promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

5. The **[**Missouri seed capital investment board**]** **corporation** shall report the following to the department:

(1) As soon as practicable after the receipt of a qualified contribution the name of each person from which the qualified contribution was received, the amount of each contributor's qualified contribution and the tax credits computed pursuant to this section;

(2) On a quarterly basis, the amount of qualified investments made to any qualified business;

(3) On a quarterly basis, verification that the investment of seed capital, start-up capital, or follow-up capital in a qualified business does not direct more than ten percent of all the qualified contributions to a qualified fund to be invested in a single qualifying business.

6. Each qualified fund shall provide annual audited financial statements, including the opinion of an independent certified public accountant, to the department within ninety days of the close of the state fiscal year. The audit shall address the methods of operation and conduct of the business of the qualified economic development organization to determine compliance with the statutes and program and program rules and that the qualified contributions received by the qualified fund have been invested as required by this section.

620.647. CORPORATION TO AUTHORIZE CONTRACTUAL AGREEMENTS FOR QUALIFIED ECONOMIC DEVELOPMENT ORGANIZATIONS — QUALIFIED FUNDS TO CONTRACT WITH AT LEAST ONE QUALIFIED ECONOMIC DEVELOPMENT ORGANIZATION, REQUIRED PROVISIONS — PAYMENT OF DISTRIBUTIONS TO QUALIFIED ECONOMIC DEVELOPMENT ORGANIZATIONS, USE OF PAYMENTS, RESTRICTIONS. — 1. The **[**board or**]** corporation may authorize each qualified economic development organization to enter into contractual agreements with any qualified fund allowing such qualified fund to offer tax credits authorized pursuant to the provisions of sections 620.635 to 620.653 to those persons making qualified contributions to the qualified fund. The **[**board**]** **corporation** shall establish policies and procedures requiring each authorized qualified economic development organization to secure from each qualified fund and its investors the maximum fund equity interest possible, as dictated by market conditions, in exchange for the use of the tax credits. All tax credits authorized pursuant to sections 620.635 to 620.653 shall be administered by the department.

2. Each qualified fund shall enter into a contract with one or more qualified economic development organizations which shall entitle all qualified economic development organizations in existence at that time to receive and share equally all distributions of equity and dividends or other earnings of the fund that are generated as a result of any equity interest secured as a result of actions taken to comply with subsection 1 of this section. Such contracts shall require the qualified funds to transfer to the **[**board**] corporation** all distributions of dividends or other earnings of the fund that are owed to any qualified economic development organization that has dissolved or has ceased doing business for a period of one year or more.

3. All distributions of dividends, earnings, equity or the like owed pursuant to the provisions of sections 620.635 to 620.653 to a qualified economic development organization by any qualified fund shall be paid to the qualified economic development organization. The qualified economic development organization shall use such payments solely for reinvestment in qualified funds in order to provide ongoing seed capital, start-up capital and follow-up capital for Missouri businesses. No qualified economic development organization may transfer any dividends, earnings, equity or the like owed it pursuant to sections 620.635 to 620.653 to any other person or entity without the approval of the **[**board**] corporation**.

620.650. PURPOSE OF QUALIFIED FUNDS — TAX CREDIT FOR QUALIFIED CONTRIBUTION TO QUALIFIED FUND, AMOUNT, APPLICATION, RESTRICTIONS — TAX ON QUALIFIED FUNDS UNINVESTED CAPITAL, AMOUNT, DISTRIBUTIONS DEEMED MADE AT END OF TAX YEAR. — 1. The sole purpose of each qualified fund is to make investments. One hundred percent of investments made from qualified contributions shall be qualified investments.

2. Any person who makes a qualified contribution to a qualified fund shall receive a tax credit against the tax otherwise due pursuant to chapter 143, chapter 147, or chapter 148, other than taxes withheld pursuant to sections 143.191 to 143.265, in an amount equal to one hundred percent of such person's qualified contribution.

3. Such person shall submit to the department an application for the tax credit on a form provided by the department. The department shall award tax credits in the order the applications are received and based upon the strategy approved by the **[**board**] corporation**. Tax credits issued pursuant to this section may be claimed for the tax year in which the qualified contribution is made or in any of the following ten years, and may be assigned, transferred or sold.

4. There is hereby imposed on each qualified fund a tax equal to fifteen percent of the qualified fund's uninvested capital at the close of such qualified fund's tax year. For purposes of tax computation, any distribution made by a qualified fund during a tax year is deemed made at the end of such tax year. Each tax year, every qualified fund shall remit the tax imposed by this section to the director of the department of revenue for deposit in the state treasury to the credit of the general revenue fund.

620.653. CORPORATION TO APPROVE ONE QUALIFIED FUND — TRANSFER OF POWERS — CORPORATION TO APPROVE PROFESSIONAL FUND MANAGER FOR THE QUALIFIED FUND IT APPROVES. — The provisions of sections 620.635 to 620.650 to the contrary notwithstanding, one qualified fund shall be approved by the corporation as soon as practicable after July 8, 1999. Such fund need not be initially incorporated into the seed capital and commercialization strategy until after the appointment of the board. After the appointment of the board, all powers exercised by the corporation in relation to that fund shall be transferred to the board. **After the dissolution of the board, all powers exercised by the board shall be transferred to the corporation.** The corporation shall approve the professional fund manager employed by the qualified fund established by this section.

632.020. ADVISORY COUNCIL FOR COMPREHENSIVE PSYCHIATRIC SERVICES — MEMBERS, NUMBER, TERMS, QUALIFICATIONS, APPOINTMENT — ORGANIZATION, MEETINGS — DUTIES. — 1. The Missouri advisory council for comprehensive psychiatric services, created

by executive order of the governor on June 10, 1977, shall act as an advisory body to the division and the division director. The council shall be comprised of up to twenty-five members, the number to be determined under the council bylaws.

2. The members of the council shall be appointed by the director. Members shall serve for overlapping terms of three years each. The members of the existing council appointed under the provisions of the executive order shall serve the remainder of their appointed terms. At the expiration of the term of each such member, the director shall appoint an individual who shall hold office for a term of three years. Each member shall hold office until a successor has been appointed. Members shall have professional, research or personal interest in the prevention, evaluation, care, treatment and rehabilitation of persons affected by mental disorders and mental illness. The council shall include representatives from the following:

(1) Nongovernment organization or groups and state agencies concerned with the planning, operation or use of comprehensive psychiatric services;

(2) Representatives of consumers and providers of comprehensive psychiatric services who are familiar with the need for such services. At least one-half of the members shall be consumers. No more than one-fourth of the members shall be vendors or members of boards of directors, employees or officers of vendors, or any of their spouses, if such vendors receive more than fifteen hundred dollars under contract with the department; except that members of boards of directors of not-for-profit corporations shall not be considered members of board of directors of vendors under this subsection.

3. A vacancy occurring on the council shall be filled by appointment of the director.

4. Meetings shall be held at least every ninety days at the call of the division director or the council chairman, who shall be elected by the council.

5. Each member shall be reimbursed for reasonable and necessary expenses, including travel expenses pursuant to the travel regulations for employees of the department, actually incurred in the performance of his official duties.

6. The council may be divided into subcouncils in accordance with its bylaws. The council shall study, plan and make recommendations on the prevention, evaluation, care, treatment, rehabilitation, housing and facilities for persons affected by mental disorders and mental illness.

7. No member of a state advisory council may participate in or seek to influence a decision or vote of the council if the member would be directly involved with the matter or **[**if he**]** would derive income from it. A violation of the prohibition contained herein shall be grounds for a person to be removed as a member of the council by the director.

8. The council shall collaborate with the department in developing and administering a state plan for comprehensive psychiatric services. The council shall be advisory and shall:

(1) Promote meetings and programs for the discussion of reducing the debilitating effects of mental disorders and mental illness and disseminate information in cooperation with any other department, agency or entity on the prevention, evaluation, care, treatment and rehabilitation for persons affected by mental disorders or mental illness;

(2) Study and review current prevention, evaluation, care, treatment and rehabilitation technologies and recommend appropriate preparation, training, retraining and distribution of manpower and resources in the provision of services to persons affected by mental disorders or mental illness through private and public residential facilities, day programs and other specialized services;

(3) Recommend what specific methods, means and procedures should be adopted to improve and upgrade the department comprehensive psychiatric service delivery system for citizens of this state;

(4) Participate in developing and disseminating criteria and standards to qualify comprehensive psychiatric service residential facilities, day programs and other specialized services in this state for funding or licensing, or both, by the department**;**

(5) Provide oversight for suicide prevention activities.

660.010. DEPARTMENT OF SOCIAL SERVICES CREATED — DIVISIONS AND AGENCIES ASSIGNED TO DEPARTMENT — DUTIES, POWERS — DIRECTOR'S APPOINTMENT. — 1. There is hereby created a "Department of Social Services" in charge of a director appointed by the governor, by and with the advice and consent of the senate. All the powers, duties and functions of the director of the department of public health and welfare, chapters 191 and 192, and others, not previously reassigned by executive reorganization plan number 2 of 1973 as submitted by the governor under chapter 26 except those assigned to the department of mental health, are transferred by type I transfer to the director of the department of social services and the office of the director, department of public health and welfare is abolished. The department of public health and welfare is abolished. All employees of the department of social services shall be covered by the provisions of chapter 36 except the director of the department and his secretary, all division directors and their secretaries, and no more than three additional positions in each division which may be designated by the division director.

2. It is the intent of the general assembly in establishing the department of social services, as provided herein, to authorize the director of the department to coordinate the state's programs devoted to those unable to provide for themselves and for the rehabilitation of victims of social disadvantage. The director shall use the resources provided to the department to provide comprehensive programs and leadership striking at the roots of dependency, disability and abuse of society's rules with the purpose of improving service and economical operations. The department is directed to take all steps possible to consolidate and coordinate the field operations of the department to maximize service to the citizens of the state.

3. All the powers, duties and functions of the division of welfare, chapters 205, 207, 208, 209, and 210 and others, are transferred by type I transfer to the "Division of Family Services" which is hereby created in the department of social services. The director of the division shall be appointed by the director of the department. All references to the division of welfare shall hereafter be construed to mean the division of family services of the department of social services.

4. **[**All the powers, duties and functions of the board of nursing home administrators, chapter 344, are transferred by type I transfer to the department of social services. The public members of the board shall be appointed by the director of the department.

5.**]** The state's responsibility under public law 452 of the eighty-eighth Congress and others, pertaining to the Office of Economic Opportunity, is transferred by type I transfer to the department of social services.

[6.**]** **5.** The state's responsibility under public law 73, Older Americans Act of 1965, of the eighty-ninth Congress is transferred by type I transfer to the department of social services.

[7.**]** **6.** All the powers, duties and functions vested by law in the curators of the University of Missouri relating to crippled children's services, chapter 201, are transferred by type I transfer to the department of social services.

[8.**]** **7.** All the powers, duties and functions vested in the state board of training schools, chapter 219 and others, are transferred by type I transfer to the "Division of Youth Services" hereby authorized in the department of social services headed by a director appointed by the director of the department. The state board of training schools shall be reconstituted as an advisory board on youth services, appointed by the director of the department. The advisory board shall visit each facility of the division as often as possible, shall file a written report with the director of the department and the governor on conditions they observed relating to the care and rehabilitative efforts in behalf of children assigned to the facility, the security of the facility and any other matters pertinent in their judgment. Copies of these reports shall be filed with the legislative library. Members of the advisory board shall receive reimbursement for their expenses and twenty-five dollars a day for each day they engage in official business relating to their duties. The members of the board shall be provided with identification means by the director of the division permitting immediate access to all facilities enabling them to make unannounced entrance to facilities they wish to inspect.

[21.475. WETLANDS COMMITTEE CREATED, MEMBERS — CONTRACTS WITH CERTAIN ENTITIES, COMMITTEE APPROVAL, WHEN — HEARINGS, REIMBURSEMENT, STAFF ASSISTANCE. — 1. Because wetlands are a vital natural resource and wetland conversion is of vital interest to Missouri farmers, conservationists, and landowners, for oversight of various activities of the department of natural resources and other agencies, the senate and the house of representatives shall establish a "Joint Committee on Wetlands", composed of five members of the senate, appointed by the president pro tem of the senate, and five members of the house of representatives, appointed by the speaker of the house. Not more than three members appointed by the president pro tem and not more than three members appointed by the speaker of the house shall be from the same political party. Any state department or agency except the department of conservation and the department of transportation shall obtain the approval of the joint committee on wetlands prior to entering into a contract with any entity of the government or any private entity to conduct any activity relating to the definition, preservation or restoration of wetlands. Each department, division and agency of state government shall provide any information relating to the state's wetlands to the joint committee on wetlands upon request of the committee.

2. The committee may hold hearings and conduct investigations within the state as it deems advisable, and the members shall receive no additional compensation, other than reimbursement for their actual and necessary expenses incurred in the performance of their duties. The staff of the committee on legislative research, house research, and senate research shall provide necessary clerical, research, fiscal and legal services to the committee, as the committee may request.**]**

[21.780. COMMITTEE TO REVIEW COUNTY SALARIES, MEMBERS, DUTIES. — Every ten years after August 28, 1997, a review of county salaries shall be made by the general assembly. A committee consisting of three members of the house of representatives appointed by the speaker and three members of the senate appointed by the president pro tem shall carry out the review. The committee shall complete its review by December thirty-first of the year in which the committee is appointed. Legislation to revise the then existing salary schedules may be filed at the next following session of the general assembly.**]**

[26.600. CITATION OF THE LAW. — Sections 26.600 to 26.614 shall be known and may be cited as the "Missouri Community Service Act".**]**

[26.603. DEFINITIONS. — As used in sections 26.600 to 26.614, the following terms mean:

(1) "Act", the national and community service act of 1990, as amended;

(2) "Commission", the Missouri community service commission created by sections 26.600 to 26.614;

(3) "Community service programs", the performance of tasks designed primarily to address educational, public safety, human, or environmental needs at a local, regional, state, or multistate level;

(4) "Corporation", the corporation for national and community service authorized by the act;

(5) "National service position", a placement in a community service program whereby an individual may earn an educational award, as authorized by the act;

(6) "National service laws", the act and other federal legislation that authorizes or may authorize community service activities in states.**]**

[26.605. COMMUNITY SERVICE COMMISSION CREATED IN OFFICE OF GOVERNOR — ASSIGNMENT POWERS OF GOVERNOR — PURPOSE. — 1. There is hereby created and established within the office of the governor "The Missouri Community Service Commission". The governor may, by executive order, assign this commission to the office of any executive department or statewide elected official.

2. The commission is established to make community service the common expectation and experience of all Missourians with a special concentration on Missouri's young people. The commission shall focus its efforts primarily on issues related to education, public safety, human needs and the environment.

3. The commission shall work to renew the ethic of civic responsibility in Missouri and to involve and enroll citizens in service opportunities that benefit Missouri while offering citizens skills that can be used to further their own plans for education, for a career, or for continuing community services. The commission shall build on the existing organizational framework of state, local and community-based programs and agencies to expand full-time and part-time service opportunities for all citizens, but particularly Missouri's youth.**]**

[26.607. MEMBERS OF COMMISSION, APPOINTMENT, QUALIFICATIONS — TERMS, VACANCIES — EXPENSES — CHAIRPERSON AND OFFICERS ELECTION — MEETING REQUIREMENTS. — 1. The commission shall include at least fifteen but no more than twenty-five voting members appointed by the governor, with the advice and consent of the senate. The commission shall include the following voting members:

(1) A representative of local government;

(2) The commissioner of the department of elementary and secondary education or the designee of such person;

(3) An individual with experience in promoting the involvement of older adults in service and volunteerism;

(4) A representative of a national service program;

(5) An individual with expertise in the educational, training and development needs of youth, particularly disadvantaged youth;

(6) An individual between the ages of sixteen and twenty-five years who is a participant in or supervisor of a service program for school age youth, or a campus-based or national service program;

(7) A representative of community-based agencies or organizations in the state;

(8) A representative of labor organizations;

(9) A member representing the business community;

(10) The lieutenant governor or his or her designee;

(11) A representative from the Corporation for National and Community Service, who shall serve as a nonvoting, ex officio member;

(12) Other members, at the discretion of and appointed by the governor, provided that there are at least fifteen but not more than twenty-five voting members, and provided that no more than twenty-five percent of the voting members are officers or employees of the state, and provided further that not more than fifty percent plus one of the voting members of the commission are members of the same political party;

(13) The governor may appoint any number of other nonvoting, ex officio members who shall serve at the pleasure of the governor.

2. Appointments to the commission shall reflect the race, ethnicity, age, gender and disability characteristics of the population of the state as a whole.

3. Voting members shall serve renewable terms of three years, except that of the first members appointed, one-third shall serve for a term of one year, one-third shall serve for a term of two years, and one-third shall serve for a term of three years. If a commission vacancy occurs, the governor shall appoint a new member to serve for the

remainder of the unexpired term. Vacancies shall not affect the power of the remaining members to execute the commission's duties.

4. The members of the commission shall receive no compensation for their services on the commission, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties.

5. The voting members of the commission shall elect one of their members to serve as chairperson of the commission. The voting members may elect such other officers as deemed necessary.

6. The commission shall meet at least quarterly.**]**

[26.609. POWERS AND DUTIES OF COMMISSION. — 1. The commission shall have the following powers and duties:

(1) To ensure that its funding decisions meet all federal and state statutory requirements;

(2) To prepare for this state an annual national service plan that follows state and federal guidelines;

(3) To recommend innovative statewide service programs to increase volunteer participation and community-based problem solving by all age groups and among diverse participants;

(4) To utilize local, state and federal resources to initiate, strengthen and expand quality service programs;

(5) To promote interagency collaboration to maximize resources and develop a model of such collaboration on the state level;

(6) To oversee the application process to apply for corporation grants and funds, and for approval of service positions;

(7) To establish priorities, policies and procedures for the use of funds received under national service laws and for funds deposited into the community service commission fund established in section 26.614;

(8) To provide technical assistance for applicants to plan and implement service programs and to apply for assistance under the national service laws;

(9) To solicit and accept gifts, contributions, grants, bequests or other aid from any person, business, organization or foundation, public or private and from federal, state or local government or any agency of federal, state or local government.

2. The commission shall have other powers and duties in addition to those listed in subsection 1 of this section, including:

(1) To utilize staff within the office of the governor, the office of a designated statewide elected official or other executive departments as needed for this purpose; and

(2) To enter into contracts with individuals, organizations and institutions within amounts available for this purpose.]

[26.611. COOPERATION OF ALL STATE AGENCIES, UNIVERSITY OF MISSOURI, SCHOOL DISTRICTS AUTHORIZED. — 1. All state agencies, the University of Missouri extension system, and any unit of local government, including school districts, may share information and cooperate with the commission to enable it to perform the functions assigned to it by state and federal law.

2. Any state agency that operates or plans to establish a community service program may coordinate its efforts with the commission.**]**

[26.614. COMMUNITY SERVICE COMMISSION FUND CREATED — FUNDING — PURPOSE — LAPSE INTO GENERAL REVENUE PROHIBITED — REPORT DUE WHEN. — 1. There is hereby created in the state treasury the "Community Service

Commission Fund". The state treasurer shall deposit to the credit of the fund all moneys which may be appropriated to it by the general assembly and also any gifts, contributions, grants, bequests or other aid received from federal, private or other sources. The general assembly may appropriate moneys into the fund for the support of the commission and its activities. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund at the end of the biennium.

2. The commission shall submit an annual report of its activities to the speaker of the house of representatives, the president pro tem of the senate, and the governor before January thirty-first of each year.**]**

[32.250. MULTISTATE TAX COMPACT ADVISORY COMMITTEE — MEMBERSHIPS — DUTIES. — There is hereby established the "Multistate Tax Compact Advisory Committee" composed of the member of the multistate tax commission representing this state, any alternate designated by him, the attorney general or his designee, and two members of the senate, appointed by the president pro tem thereof and two members of the house of representatives, appointed by the speaker thereof. The chairman shall be the member of the commission representing this state. The committee shall meet on the call of its chairman or at the request of a majority of its members, but in any event it shall meet not less than three times in each year. The committee may consider any and all matters relating to recommendations of the multistate tax commission and the activities of the members in representing this state thereon.**]**

[32.260. ADVISORY COMMITTEE MAY EMPLOY COUNSEL. — The multistate tax compact advisory committee may employ counsel to represent it or to act for it, and may fix his compensation within the limits of funds appropriated to the committee.**]**

[105.1010. COMMISSION, APPOINTMENT, TERMS — CHAIRMAN ELECTED — MEETINGS, EXPENSES. — The Missouri state employees voluntary life insurance commission shall have five commissioners, including one member of the house of representatives to be selected by the speaker of the house, one member of the senate to be selected by the president pro tem of the senate, and three other commissioners to be appointed by the governor of the state of Missouri, with the advice and consent of the senate. The members of the general assembly appointed as commissioners shall serve during their terms of office in the general assembly. The commissioners appointed by the governor shall serve a term of three years; except that, of the commissioners first appointed, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and one shall be appointed for a term of three years. The commission shall annually elect a chairman and shall be required to meet not less than quarterly or at any other such time as called by the chairman or a majority of the commission. The members of the commission shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.**]**

[166.200. CITATION OF LAW. — Sections 166.200 to 166.242, sections 173.053 and 173.262 shall be known as the "Missouri Access to Higher Education Act".**]**

[166.201. DEFINITIONS. — As used in sections 166.200 to 166.242, sections 173.053 and 173.262, the following terms mean:

(1) "Advance tuition payment contract", a contract entered into by the trust and a purchaser pursuant to the provisions of sections 166.200 to 166.242, sections 173.053 and 173.262 to provide for the higher education of a qualified beneficiary;

(2) "Board", the board of directors of the Missouri access to higher education trust;

(3) "Fund", the Missouri access to higher education trust fund created in section 166.207;

(4) "Pell grant", a federal grant for undergraduate students based on financial need and, for the purposes of sections 166.200 to 166.242, sections 173.053 and 173.262, determines financial need;

(5) "Purchaser", a person who makes or is obligated to make advance tuition payments pursuant to an advance tuition payment contract;

(6) "Qualified beneficiary", any resident of this state named as a beneficiary in an advance tuition payment contract;

(7) "State institution of higher education", any college, university, or community college supported in whole or in part out of state funds specifically appropriated for operations;

(8) "Trust", the Missouri access to higher education trust created in section 166.203;

(9) "Tuition", any tuition or other fees charged by a state institution of higher education for attendance at that institution as a student by a resident of this state;

(10) "Weighted average tuition cost of state institutions of higher education", the tuition cost arrived at by adding the products of the annual undergraduate tuition cost at each state institution of higher education and its total number of undergraduate fiscal year equated students, and then dividing the gross total of this cumulation by the total number of undergraduate fiscal year equated students attending state institutions of higher education.**]**

[166.203. TRUST ESTABLISHED — BOARD OF DIRECTORS, APPOINTMENT, QUALIFICATIONS, TERMS, VACANCIES, EXPENSES, APPOINTMENT OF CHAIRMAN, PRESIDENT AND VICE PRESIDENT, DUTIES — QUORUM — MEETINGS. — 1. There is hereby created the "Missouri Access to Higher Education Trust", which shall be a body corporate and politic. The trust shall be located within the state office of administration, but shall exercise its prescribed powers, duties, and functions independently. The trust shall be governed by a board of directors which shall consist of ten members with knowledge, skill, and experience in the academic, business, or financial field appointed by the governor, by and with the advice and consent of the senate. Not more than three members of the board shall be, during their term of office on the board, either officials, appointees, or employees of this state, except that at least one member shall be appointed from a minority group. Of the remaining seven members appointed by the governor, one shall be appointed from a nominee of the speaker of the house of representatives, one shall be appointed from a nominee of the president pro tem of the senate, one shall be a president of a public four-year college or university, one shall be a president or chancellor of a public community college, one shall represent the interests of Missouri independent degree-granting colleges and universities, and one shall be the commissioner of higher education. Of these remaining seven members, at least one shall be a member of a minority group. Members shall be appointed for a term of three years; except that, of the members first appointed, three shall be appointed for a term of one year, three shall be appointed for a term of two years, and four shall be appointed for a term of three years. A member shall serve until a successor is appointed and qualified, and a vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment. The

governor shall designate one member as chairperson. The governor shall also designate one member as the president and chief executive officer of the trust and one member as the vice president of the trust. Members of the board, other than the president and vice president if they are not otherwise employees of the state, shall receive no compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

2. The board may delegate to its president, vice president, or other member such functions and authority as the board considers necessary or appropriate. These functions may include, but are not limited to, the oversight and supervision of employees of the trust.

3. A majority of the members of the board serving shall constitute a quorum for the transaction of business at a meeting of the board, or the exercise of a power or function of the trust, notwithstanding the existence of one or more vacancies. Voting upon action taken by the board shall be conducted by majority vote of the members present at a meeting of the board, and, if authorized by the bylaws of the board and when a quorum is present in person at the meeting, by use of amplified telephonic equipment. The board shall meet at the call of the chair and as may be provided in the bylaws of the trust. Meetings of the board may be held anywhere within the state.**]**

[166.205. POWERS OF BOARD — RULEMAKING PROCEDURE. — 1. In addition to the powers granted by other provisions of sections 166.200 to 166.242, sections 173.053 and 173.262, the board shall have the powers necessary to carry out and effectuate the purposes, objectives, and provisions of sections 166.200 to 166.242, sections 173.053 and 173.262, the purposes and objectives of the trust, including, but not limited to the power to:

(1) Pay money to state institutions of higher education from the trust;

(2) Impose reasonable limits on the number of participants in the trust;

(3) Contract for goods and services and engage personnel as is necessary and engage the services of private consultants, actuaries, managers, legal counsel, and auditors for rendering professional, management, and technical assistance and advice;

(4) Solicit and accept gifts, grants, loans, and other aid from any person, firm or corporation or the federal, state, or local government or any agency of the federal, state, or a local government, or to participate in any other way in any federal, state, or local government program;

(5) Charge, impose, and collect administrative fees and charges in connection with any transaction and provide for reasonable penalties, including default, for delinquent payment of fees or charges or for fraud;

(6) Procure insurance against any loss in connection with the trust's property, assets, or activities;

(7) Sue and be sued, to have a seal and alter the same at pleasure, to have perpetual succession, and to make and amend bylaws;

(8) To make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers;

(9) Enter into contracts on behalf of the state;

(10) Administer the funds of the trust;

(11) Indemnify or procure insurance indemnifying any member of the board from personal loss or accountability from liability resulting from a member's action or inaction as a member of the board, including but not limited to, liability asserted on any bonds or notes of the authority;

(12) Impose reasonable time limits on use of the tuition benefits provided by the trust, if the limits are made a part of the contract;

(13) Provide for receiving contributions in lump sums or periodic sums;

(14) Promulgate reasonable rules and regulations and establish policies, procedures, and eligibility criteria to implement sections 166.200 to 166.242, sections 173.053 and 173.262.

2. No rule or portion of a rule promulgated under the authority of sections 166.200 to 166.242 and sections 173.053 and 173.262 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.**]**

[166.207. TRUST FUND ESTABLISHED, PRIORITIES FOR EXPENDITURES UPON APPROPRIATION. — There is hereby created in the state treasury a "Missouri Access to Higher Education Trust Fund" into which shall be deposited all funds accruing to the trust including payments received by the trust from purchasers on behalf of qualified beneficiaries and from which, upon appropriation, shall be paid all expenditures of the trust. The fund may be divided into separate accounts. Moneys accruing to and deposited in the trust fund shall not be a part of "total state revenues" as defined in sections 17 and 18 of article X of the Constitution of the state of Missouri and the expenditure of such revenue shall not be an expense of state government under section 20 of article X of the Constitution of the state of Missouri. The provisions of section 33.080 to the contrary notwithstanding, any unexpended balance in the Missouri access to higher education trust fund at the end of any biennium shall not be transferred and placed to the credit of the state general revenue fund. All interest or other increase earned from the investment of money in the trust fund shall be credited to and deposited to that fund. Unless otherwise provided by the board, money in the fund shall, upon appropriation, be expended in the following order of priority:

(1) To make payments to state institutions of higher education on behalf of qualified beneficiaries;

(2) To make refunds upon termination of an advance tuition payment contract;

(3) To pay the costs of administration and organization of the trust and the fund.**]**

[166.209. ACCOUNTING OF FUND REQUIRED WHEN, SUBMITTED TO WHOM — ANNUAL AUDITS BY STATE AUDITOR. — The board shall annually prepare or cause to be prepared an accounting of the fund and shall transmit a copy of the accounting to the governor, the president pro tem of the senate, and the speaker of the house of representatives. The board shall also make available the accounting of the fund to purchasers of the trust. The accounts of the board shall be subject to annual audits by the state auditor.**]**

[166.212. ADMINISTRATION OF TRUST TO BE ACTUARIALLY SOUND. — 1. The fund shall be administered in a manner reasonably designed to be actuarially sound such that the assets of the trust shall be sufficient to defray the obligations of the trust.

2. In the accounting of the fund made pursuant to section 166.209, the board shall annually evaluate or cause to be evaluated by a nationally recognized actuary the actuarial soundness of the fund and determine the additional assets needed, if any, to defray the obligations of the trust. If there are not sufficient funds to ensure the actuarial soundness of the fund, the trust shall adjust payments of subsequent purchases to ensure its actuarial soundness.

3. If there are insufficient numbers of new purchasers to ensure the actuarial soundness of a plan of the trust, the available assets of the fund attributable to the plan shall be immediately prorated among the then existing contracts, and these shares shall be applied, at the option of the person to whom the refund is payable or would be payable under the contract upon termination of the contract, either towards the purposes of the contract for a qualified beneficiary or disbursed to the person to whom

the refund is payable or would be payable under the contract upon termination of the contract.**]**

[166.215. ADVANCE TUITION PAYMENT CONTRACTS, CONTENTS. — 1. The trust on behalf of itself and the state, may contract with a purchaser for the advance payment of tuition by the purchaser for a qualified beneficiary to attend any of the state institutions of higher education to which the qualified beneficiary is admitted, without further tuition cost to the qualified beneficiary. In addition, an advance tuition payment contract shall set forth all of the following:

(1) The amount of the payment or payments required from the purchaser on behalf of the qualified beneficiary;

(2) The terms and conditions for making the payment, including, but not limited to, the date or dates upon which the payment, or portions of the payment, shall be due;

(3) Provisions for late payment charges and for default;

(4) The name and age of the qualified beneficiary under the contract. The purchaser, with the approval of and on conditions determined by the trust, may subsequently substitute another person for the qualified beneficiary originally named;

(5) The number of credit hours or equivalent covered by the contract;

(6) The name of the person entitled to terminate the contract, which, as provided by the contract, may be the purchaser, the qualified beneficiary, or a person to act on behalf of the purchaser or qualified beneficiary, or any combination of these persons;

(7) The terms and conditions under which the contract may be terminated and the amount of the refund, if any, to which the person terminating the contract, or specifically the purchaser or designated qualified beneficiary if the contract so provides, shall be entitled upon termination;

(8) The assumption of a contractual obligation by the trust to the qualified beneficiary on its own behalf and on behalf of the state to provide for credit hours of higher education, not to exceed the credit hours required for the granting of a baccalaureate degree or the number of credit hours provided by the contract, whichever is less, at any state institution of higher education to which the qualified beneficiary is admitted. The advance tuition payment contract shall provide for the credit hours of higher education that a qualified beneficiary may receive under the contract if the qualified beneficiary is not entitled to in-state tuition rates;

(9) The period of time from the beginning to the end of which the qualified beneficiary may receive the benefits under the contract;

(10) Other terms, conditions, and provisions as the trust considers in its sole discretion to be necessary or appropriate.

2. The form of any advance tuition payment contract to be entered into by the trust shall first be approved by the attorney general.**]**

[166.218. ARRANGEMENTS BETWEEN THE TRUST AND INSTITUTIONS OF HIGHER EDUCATION. — The trust shall make any arrangements that are necessary or appropriate with state institutions of higher education in order to fulfill its obligations under advance tuition payment contracts, which arrangements may include, but need not be limited to, the payment by the trust of the then actual in-state tuition cost on behalf of a qualified beneficiary to the state institution of higher education.**]**

[166.220. QUALIFIED BENEFICIARY MAY ATTEND COMMUNITY COLLEGE. — An advance tuition payment contract shall provide that the trust provide for the qualified beneficiary to attend a community college in this state before entering another state institution of higher education for the purpose of completing a baccalaureate degree if the beneficiary so chooses and that the contract may be terminated pursuant

to the provisions of sections 166.200 to 166.242, sections 173.053 and 173.262 after completing the requirements for a degree or certificate at the community college in this state or before entering the other state institution of higher education.**]**

[166.222. TERMINATION OF CONTRACT, TRUST TO RETAIN PAYMENTS, WHEN. — An advance tuition payment contract may provide that, if after a number of years specified in the contract the contract has not been terminated or the qualified beneficiary's rights under the contract have not been exercised, the trust shall retain the amounts otherwise payable and the rights of the qualified beneficiary, the purchaser, or the agent of either shall be considered terminated.**]**

[166.225. CONTRACTS PROVIDING FOR REFUND OF INVESTMENT INCOME UPON CANCELLATION, RESTRICTIONS. — 1. The trust may offer contracts which provide for the refund of investment income attributable to the fund upon cancellation by the purchaser of the contract.

2. Contracts offered under this section may require that payment or payments from a purchaser, on behalf of a qualified beneficiary who may attend a state institution of higher education in less than four years after the date the contract is entered into by the purchaser, be based upon attendance at a certain state institution of higher education or at that state institution of higher education with the highest prevailing tuition cost for the number of credit hours covered by the contract.**]**

[166.228. TERMINATION OF CONTRACTS, CONDITIONS — REFUNDS, WHEN, AMOUNT. — 1. An advance tuition payment contract shall not authorize termination of the contract except when one of the following occurs:

(1) The qualified beneficiary dies;

(2) The qualified beneficiary is not admitted to a state institution of higher education after making proper application;

(3) The qualified beneficiary certifies to the trust, after attaining the age of eighteen, that he or she has decided not to attend a state institution of higher education and requests, in writing that the advance tuition payment contract be terminated;

(4) Other circumstances, determined by the trust and set forth in the advance tuition payment contract, occur.

2. An advance tuition payment contract may provide for a refund pursuant to this section to a person to whom the refund is payable under the contract upon termination of the contract. The refund may include all or a portion of the payment or payments made by the purchaser under the contract and all or a portion of the accrued investment income attributable to the payment or payments. However, except as provided in subsection 4 of this section, the amount of a refund shall not exceed the prevailing tuition cost on the date of termination for the credit hours covered by the state institution of higher education which charges the lowest rate of tuition. The amount of a refund shall be reduced by the amount transferred to a community college on behalf of a qualified beneficiary when the contract is terminated and by the amount transferred to a state institution of higher education on behalf of a qualified beneficiary. Termination of a contract and the right to receive a refund shall not be authorized under the contract if the qualified beneficiary has completed more than one-half of the credit hours required by the state institution of higher education for the awarding of a baccalaureate degree. However, this provision shall not affect the termination and refund rights of a graduate of a community college.

3. An advance tuition payment contract may authorize a person who is entitled under the advance tuition payment contract to terminate the contract, to direct payment of the refund to an independent degree-granting college or university in this state. If

directed to make payments pursuant to this subsection, the trust shall transfer to the designated institution an amount equal to the tuition due for the qualified beneficiary, but the trust shall not transfer a cumulative amount greater than the refund to which the person is entitled. If the refund exceeds the total amount of transfers directed to the designated institution, the excess shall be returned to the person to whom the refund is otherwise payable.

4. The amount of a refund paid upon termination of the advance tuition payment contract by a person who directs the trust pursuant to subsection 3 of this section to transfer the refund to an independent degree-granting college or university located in this state shall not be greater than the weighted average tuition cost of state institutions of higher education for the number of credit hours covered by the contract on the date of termination.**]**

[166.231. RULINGS FROM INTERNAL REVENUE SERVICE AND SECURITIES AND EXCHANGE COMMISSION REQUIRED, WHEN — PURCHASERS TO BE INFORMED OF RULINGS, WHEN. — An advance tuition payment contract shall not be entered by the trust until the trust has solicited answers from the United States Internal Revenue Service and the United States Securities and Exchange Commission rulings regarding the status of the trust. The trust shall inform purchasers of the rulings in question by these federal agencies prior to entering any such contract.**]**

[166.233. ENFORCEMENT OF CONTRACTS, VENUE IN COLE COUNTY. — State institutions of higher education, purchasers, qualified beneficiaries, holders of notes or bonds of the trust and others may enforce the provisions of sections 166.200 to 166.242, sections 173.053 and 173.262 and any contract, note or bond entered into pursuant to the provisions of sections 166.200 to 166.242, sections 173.053 and 173.262 by appropriate action brought in the circuit court of Cole County.**]**

[166.235. MANAGEMENT SERVICE OF TRUST, CONTRACTS FOR. — The trust, in its discretion, may contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the trust.**]**

[166.237. ADMISSION OR GRADUATION NOT GUARANTEED TO ANY PERSON. — Nothing in sections 166.200 to 166.242, sections 173.053 and 173.262 or in any advance tuition payment contract entered into pursuant to sections 166.200 to 166.242, sections 173.053 and 173.262 shall be construed as a promise or guarantee by the trust or the state of Missouri that a person will be admitted to a state institution of higher education or to a particular state institution of higher education, will be allowed to continue to attend a state institution of higher education after having been admitted, or will be graduated from a state institution of higher education.**]**

[166.240. CONTRACT NOT SUBJECT TO REGULATION AS A SECURITY, MAY NOT BE TRANSFERRED WITHOUT PRIOR APPROVAL OF TRUST. — An advance tuition payment contract is not a security subject to regulation by the state as such under the provisions of chapter 409. An advance tuition contract may not be sold or otherwise transferred by the purchaser or qualified beneficiary without the prior approval of the trust, which consent shall not be unreasonably withheld.**]**

[166.242. PAYROLL DEDUCTIONS AUTHORIZED. — The state or any state agency, county, municipality, or other political subdivision may, by contract or collective bargaining agreement, agree with any employee to remit payments toward advance payment contracts through payroll deductions made by the appropriate officer

or officers of the state. Such payments shall be held and administered in accordance with the provisions of sections 166.200 to 166.242, sections 173.053 and 173.262.**]**

[192.350. PAIN AND SYMPTOM MANAGEMENT ADVISORY COUNCIL CREATED, APPOINTMENT, QUALIFICATIONS, TERMS, VACANCIES, HOW FILLED. — 1. There is hereby established within the department of health and senior services the "Missouri State Advisory Council on Pain and Symptom Management". The council shall consist of nineteen members that are residents of this state. The members of the council shall include:

(1) The director of the department of health and senior services, or the director's designee, who shall serve as chair of the council;

(2) The state attorney general, or the attorney general's designee;

(3) Two members of the senate, appointed by the president pro tempore of the senate;

(4) Two members of the house of representatives, appointed by the speaker of the house of representatives;

(5) One physician, appointed by the Missouri state board of registration for the healing arts, that is certified and accredited in pain management;

(6) One physician, appointed by the Missouri state board of registration for the healing arts, that is certified and accredited in palliative care;

(7) Two registered nurses, appointed by the Missouri board of nursing, with expertise in hospice, oncology, long-term care, or pain and symptom management and are certified by the National Board for Certification of Hospice and Palliative Nurses;

(8) One dentist, appointed by the Missouri board of dentistry, with training in pain and symptom management and is associated with the education and training of dental students;

(9) One pharmacist, appointed by the Missouri board of pharmacy, with training in pain and symptom management and is associated with the education and training of pharmacists;

(10) One representative of the Pharmaceutical Research and Manufacturers of America, appointed by the governor, with the advice and consent of the senate;

(11) One mental health services provider, appointed by the governor, with the advice and consent of the senate;

(12) One physician assistant, appointed by the Missouri advisory commission for physician assistants, with training in pain and symptom management;

(13) One chiropractic physician, appointed by the Missouri state board of chiropractic examiners, with training in pain and symptom management;

(14) One physical therapist, appointed by the Missouri Physical Therapy Association, that specializes in pain management;

(15) One advocate representing voluntary health organizations or advocacy groups with an interest in pain management, appointed by the governor, with the advice and consent of the senate; and

(16) One member who has been diagnosed with chronic pain, appointed by the governor, with the advice and consent of the senate.

2. Members of the council shall be appointed by February 1, 2004. Of the members first appointed to the council, seven members shall serve a term of two years, and eight members shall serve a term of one year, and thereafter, members shall serve a term of two years. Members shall continue to serve until their successor is duly appointed and qualified. Any vacancy on the council shall be filled in the same manner as the original appointment.**]**

[192.352. MEMBERS TO SERVE WITHOUT COMPENSATION — EXPENSES TO BE PAID — STAFF PROVIDED BY DEPARTMENT. — 1. Members shall serve without compensation but shall, subject to appropriations, be reimbursed for reasonable and necessary expenses actually incurred in the performance of the member's official duties.

2. The department of health and senior services with existing resources shall provide administrative support and current staff as necessary for the effective operation of the council.**]**

[192.355. MEETINGS OF COUNCIL HELD, WHEN, POWERS AND DUTIES — FUNDS AND GIFTS MAY BE ACCEPTED. — 1. Meetings shall be held at least every ninety days or at the call of the council chair.

2. The advisory council shall:

(1) Hold public hearings pursuant to chapter 536 to gather information from the general public on issues pertaining to pain and symptom management;

(2) Make recommendations on acute and chronic pain management treatment practices;

(3) Analyze statutes, rules, and regulations regarding pain management;

(4) Study the use of alternative therapies regarding pain and symptom management and any sanctions imposed;

(5) Review the acute and chronic pain management education provided by professional licensing boards of this state;

(6) Examine the needs of adults, children, the terminally ill, racial and ethnic minorities, and medically underserved populations that have acute and chronic pain;

(7) Make recommendations on integrating pain and symptom management into the customary practice of health care professionals;

(8) Identify the roles and responsibilities of health care professionals in pain and symptom management;

(9) Make recommendations on the duration and content of continuing education requirements for pain and symptom management;

(10) Review guidelines on pain and symptom management issued by the United States Department of Health and Human Services;

(11) Provide an annual report on the activities of the council to the director of the department of health and senior services, the speaker of the house of representatives, the president pro tempore of the senate, and the governor by February first of every year. Such report shall include, but not be limited to the following:

(a) Issues and recommendations developed by the council;

(b) Pain management educational curricula and continuing education requirements for institutions providing health care education;

(c) Information regarding the impact and effectiveness of prior recommendations, if any, that have been implemented; and

(d) Review of current policies regarding pain and symptom management and any changes thereto occurring in pain and symptom management.

3. The department of health and senior services may accept on behalf of the council any federal funds, gifts, and donations from individuals, private organizations, and foundations, and any other funds that may become available.**]**

[208.195. MEDICAL AND TECHNICAL ADVISORY COMMITTEE, APPOINTMENT, EXPENSES. — The director of the division of family services shall appoint an advisory committee to provide professional and technical consultation in respect to the medical care aspects for public assistance recipients as set out in this chapter. The committee shall consist of twenty members, including the chairman of the senate committee of public health and welfare and chairman of the house of representatives committee of

Social Security, and a minority member of each committee and at least three physicians licensed to practice in this state. The others shall be persons interested in hospital administration, nursing home administration, nursing, dentistry, optometry and pharmaceutics. The members of the advisory committee shall receive no compensation for their services other than expenses actually incurred in the performance of their official duties.**]**

[208.792. ADVISORY COMMISSION ESTABLISHED, MEMBERS, DUTIES. — 1. There is hereby established the "Missouri Rx Plan Advisory Commission" within the department of social services to provide advice on the benefit design and operational policy of the Missouri Rx plan established in sections 208.782 to 208.798. The commission shall consist of the following fifteen members:

(1) The lieutenant governor, in his or her capacity as advocate for senior citizens;

(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;

(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 director of the division of medical services in the department of social services;

(5) The director of the division of senior and disability services in the department of health and senior services;

(6) The chairperson of the governor's commission on special health, psychological and social needs of minority older individuals;

(7) The following four members appointed by the governor, with the advice and consent of the senate:

(a) A licensed pharmacist;

(b) A licensed physician;

(c) A representative from a senior advocacy group; and

(d) A representative from an area agency on aging;

(8) A representative from the pharmaceutical manufacturers industry as a nonvoting member appointed by the president pro tem of the senate and the speaker of the house of representatives;

(9) One public member appointed by the president pro tem of the senate; and

(10) One public member appointed by the speaker of the house of representatives.

In making the initial appointment to the committee, the governor, president pro tem, and speaker shall stagger the terms of the appointees so that four members serve initial terms of two years, four members serve initial terms of three years, four members serve initial terms of four years, and one member serves an initial term of one year. All members appointed thereafter shall serve three-year terms. All members shall be eligible for reappointment. The commission shall elect a chair and may employ an executive director and such professional, clerical, and research personnel as may be necessary to assist in the performance of the commission's duties.

2. Recognizing the unique medical needs of the senior African-American population, the president pro tem of the senate, speaker of the house of representatives, and governor will collaborate to ensure that there is adequate minority representation among legislative members and other members of the commission.

3. The commission:

(1) May provide advice on guidelines, policies, and procedures necessary to establish the Missouri Rx plan;

(2) Shall educate Missouri residents on quality prescription drug programs and cost-containment strategies in medication therapy;

(3) Shall assist Missouri residents in enrolling or accessing prescription drug assistance programs for which they are eligible; and

(4) Shall hold quarterly meetings and other meetings as deemed necessary.

4. The members of the commission shall receive no compensation for their service on the commission, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties as a member of the commission.**]**

[260.725. ADVISORY COMMITTEE, APPOINTMENT, QUALIFICATIONS, TERMS, DUTIES. — 1. There is hereby created within the department of natural resources the "Low-level Radioactive Waste Compact Advisory Committee". The committee shall consist of one representative of an institution of higher education, one representative of the general public, one representative of industry, one representative of a medical field, one member of the Missouri house of representatives, one member of the Missouri senate and Missouri's member on the midwest low-level radioactive waste compact commission. If Missouri is designated a host state for a regional disposal facility, the advisory committee shall be expanded to include a representative from the host county. Each member shall be appointed by the governor with the advice and consent of the senate, except that the member from the Missouri house of representatives shall be appointed by the speaker of the house and the member from the Missouri senate shall be appointed by the president pro tempore of the senate. Any representative of a host county shall be nominated by the county court of the host county and appointed by the governor. Each member shall serve for a term of four years with the first members' appointments staggered so that all members' terms do not expire simultaneously.

2. The advisory committee shall:

(1) Act in an advisory capacity to Missouri's member on the commission;

(2) Meet as necessary, but at least twice yearly, to review activities of the commission and midwest interstate low-level radioactive waste compact states; and

(3) Present recommendations in writing to the governor and the general assembly as requested or as necessary to insure adequate exchange of information.**]**

[286.200. GOVERNOR'S COUNCIL ON DISABILITY — MEMBERS, APPOINTMENT, TERMS, QUALIFICATIONS. — 1. The "Governor's Committee on Employment of People with Disabilities" will hereafter be known as the "Governor's Council on Disability" and is hereby assigned to the department of labor and industrial relations.

2. The council shall consist of a chairperson, twenty members and an executive director.

3. The chairperson shall be appointed by the governor with the advice and consent of the senate. The members of the council shall be appointed by the governor. Recruitment and appointment of members to the council shall provide for representation of various ethnic, age, gender and physical and mental disability groups.

4. (1) The nine members of the governor's committee on the employment of people with disabilities whose terms of office expire in October of 1995 and the four members of the governor's committee on the employment of people with disabilities whose terms of office expire in October of 1997 shall be deemed members of the council on disability. Of the ten members of the committee on the employment of people with disabilities whose terms of office expired in October of 1993 and any

vacancies on the committee on the employment of people with disabilities, only seven shall be appointed to the council;

(2) The terms of office for the chairperson and the seven council members first appointed after August 28, 1994, shall be as follows:

(a) The term of office for one of the initial new council members shall expire in October of 1995;

(b) The terms of office for the chairperson and the other six initial council members shall expire in October of 1997, so that one-half of the members of the council may be chosen every second year.

5. The funds necessary for the executive director and such other personnel as necessary shall be appropriated through the department of labor and industrial relations. The executive director shall serve under the supervision of the committee chairman. The executive director shall be exempted from the state merit system.

6. All successor members shall be appointed for four-year terms. Vacancies occurring in the membership of the council for any reason shall be filled by appointment by the governor for the unexpired term. Upon expiration of their terms, members of the council shall continue to hold office until the appointment and qualification of their successors. No person shall be appointed for more than two consecutive terms, except that a person appointed to fill a vacancy may serve for two additional successive terms. The governor may remove a member for cause.

7. Members of the council shall be chosen to meet the following criteria:

(1) The majority of the council shall be comprised of people with disabilities, representing the various disability groups. The remaining positions shall be filled by family members of people with disabilities, persons who represent other disability-related groups, and other advocates. A person considered to have a disability shall meet the federal definition of disability as defined by P.L. 101-336;

(2) The council shall include at least one member from each congressional district;

(3) Members of the council shall be knowledgeable about disability-related issues and have demonstrated a commitment to full participation of people with disabilities in all aspects of community life.

8. The chairperson of the council shall serve without compensation but shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of the duties as chairperson of the council on disability. The members of the council shall serve without compensation but may be reimbursed for their actual and necessary expenses incurred in attending all meetings provided for by sections 286.200 to 286.210.

9. The council shall meet at least once each calendar quarter to conduct its business. The executive director shall give written notice by mail to each member of the time and place of each meeting of the council at least ten days before the scheduled date of the meetings, and notice of any special meetings shall state the specific matters to be considered in the special meeting which is not a regular quarterly meeting.

10. The chairperson, with the advice and consent of the council, shall appoint an executive director who shall serve as a nonvoting member and executive officer of the council. The executive director shall serve under the supervision of the chairperson of the council. The executive director shall be a person who is knowledgeable about disability-related issues and has demonstrated a commitment to full participation of people with disabilities in all aspects of community life.

11. All information, documents, records and contracts of the committee on employment of people with disabilities shall become those of the council on disability.

12. The director of each state department shall designate at least one employee who shall act as a liaison with the council.**]**

[286.205. DUTIES OF COUNCIL. — The governor's council on disability shall:

(1) Act in an advisory capacity to all state agencies and have direct input to all divisions of the office of administration on policies and practices which impact people with disabilities. Input shall include policies and practices affecting personnel, purchasing, design and construction of new facilities, facilities management, budget and planning and general services. In the administration of its duties, the governor's council on disability in cooperation with the office of administration shall offer technical assistance to help all departments, divisions and branches of state government comply with applicable state and federal law regarding persons with disabilities;

(2) Work and cooperate with other state commissions, councils or committees pertaining to disabilities and other national, state and local entities to create public policies and encourage system changes which eliminate barriers to people with disabilities;

(3) Advocate for public policies and practices which:

(a) Promote employment of people with disabilities;

(b) Expand opportunities in all aspects of life; and

(c) Promote awareness of and compliance with various federal, state and local laws dealing with disabilities;

(4) Gather input from disability-related organizations and the public on disability-related issues and report the results of this information in council reports to the governor;

(5) Accept grants, private gifts, and bequests, to be used to achieve the purposes of sections 286.200 to 286.210;

(6) Promulgate those bylaws necessary for the efficient operation of the council;

(7) Prepare an annual report to be presented to the governor not later than January first of each year.**]**

[286.210. GOVERNOR'S COUNCIL ON DISABILITY MAY RECEIVE FUNDS AND PROPERTY. — The governor's council on disability may receive funds and property by gift, devise, bequest or otherwise and may solicit funds to be used in carrying out the purposes of sections 286.200 to 286.210.**]**

[302.136. MOTORCYCLE SAFETY PROGRAM ADVISORY COMMITTEE — MEMBERS, TERMS, QUALIFICATIONS — CHAIRMAN, HOW APPOINTED — MEETING — EXPENSES. — The director shall by regulation establish the "Motorcycle Safety Program Advisory Committee" to assist in the development and implementation of the program. The committee shall consist of seven members and shall include members representing the motoring public, motorcycle dealerships, motorcycle instructors, law enforcement agencies, the motorcycle safety education program, and the department of public safety. Beginning on August 28, 1999, the governor shall appoint the members of the committee for terms of three years; except those first appointed by the governor, two shall be for terms of one year, two shall be for terms of two years and three shall be for terms of three years. The committee shall appoint a chairman and meet at least two times per year. Members shall serve without compensation, but may be reimbursed for their reasonable expenses incurred in the performance of their duties.**]**

[324.600. DEFINITIONS. — For the purposes of sections 324.600 to 324.635, the following terms mean:

(1) "Board", the board of licensed private fire investigator examiners;

(2) "Client", any person who engages the services of a private fire investigator;

(3) "Division", the division of fire safety within the department of public safety;

(4) "Insurance adjuster", 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;

(5) "License", a private fire investigator license;

(6) "Licensed private fire investigation", the furnishing of, making of, or agreeing to make any investigation of a fire for the origin, cause, or responsibility of such fire;

(7) "Licensed private fire investigator", any person who receives any consideration, either directly or indirectly, for engaging in the investigation of the origin, cause, or responsibility of fires;

(8) "Licensed private fire investigator agency", a person or firm that employs any person to engage in the investigation of fires to determine the origin, cause, and responsibility of such fires;

(9) "Organization", a corporation, trust, estate, partnership, cooperation, or association;

(10) "Person", an individual;

(11) "Principal place of business", the place where the licensee maintains a permanent office which may be a residence or business address.**]**

[324.603. BOARD CREATED, MEMBERS, QUALIFICATIONS, TERMS, VACANCIES, EXPENSES. — 1. The "Board of Licensed Private Fire Investigator Examiners" is hereby created within the division of fire safety. The board shall be composed of six members appointed by the governor, with the advice and consent of the senate. The board shall consist of:

(1) The state fire marshal, or his or her designee;

(2) A representative of a private fire investigation agency;

(3) A representative of the insurance industry;

(4) A representative of the Missouri chapter of the International Association of Arson Investigators;

(5) A representative of the Professional Fire and Fraud Investigators Association;

(6) A representative of the Kansas City Arson Task Force; and

(7) One person who is an independent private fire investigator.

2. Each member of the board shall be a citizen of the United States, a resident of this state, at least thirty years of age, and shall have been actively engaged in fire investigation for the previous five years. No more than one board member shall be employed by or affiliated with the same licensed private fire investigation agency. The initial board members shall not be required to be licensed but shall obtain a license within one hundred eighty days after appointment to the board.

3. The members of the board shall be appointed for terms of three years, except those first appointed, in which case two members shall be appointed for terms of three years, two members shall be appointed for terms of two years, and two members shall be appointed for a one-year term. Any vacancy on the board shall be filled for the remainder of the unexpired term of that member. The members of the board shall serve without pay, but they shall receive per diem expenses in an equivalent amount as allowed for members of the general assembly.**]**

[324.606. EXEMPTIONS FROM LICENSURE REQUIREMENTS. — The following persons or organizations shall not be deemed to be engaging in licensed private fire investigation:

(1) Any officer or employee of the United States, this state, or a political subdivision of this state, or an entity organized under section 320.300 while engaged in the performance of the officer's or employee's official duties;

(2) An attorney performing duties as an attorney;

(3) An investigator who is an employee of an insurance company;

(4) Insurers, agents, and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them;

(5) An insurance adjuster; or

(6) An investigator employed by and under the supervision of a licensed attorney while acting within the scope of employment, who does not represent himself or herself to be a licensed private fire investigator.**]**

[324.609. APPLICATION PROCEDURE, CONTENTS — QUALIFICATIONS OF APPLICANTS — CONDITIONS OF LICENSURE — DENIAL OF LICENSURE, WHEN — FEE — RENEWAL. — 1. Every person desiring to be licensed in this state as a licensed private fire investigator or licensed private fire investigator agency shall make an application to the board. An application for a license pursuant to the provisions of sections 324.600 to 324.635 shall be on a form prescribed by the board 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 that the applicant intends to do business under;

(3) A statement as to the general nature of the business that the applicant intends to engage in;

(4) Two recent passport photographs of the applicant and two classifiable sets of the applicant's fingerprints;

(5) A verified statement of the applicant's experience qualifications; and

(6) Such other information, evidence, statements, or documents as may be required by the state fire marshal.

2. To be eligible for licensure, the applicant shall:

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

(2) Be a citizen of the United States;

(3) Not have a felony conviction or a conviction of a crime involving moral turpitude;

(4) Provide proof of liability insurance with amount to be no less than one million dollars in coverage; and

(5) Comply with such other qualifications as the board shall require. For the purposes of sections 324.600 to 324.635, 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.

3. The board shall require as a condition of licensure that the applicant:

(1) Successfully complete a course of training approved by the state fire marshal's office;

(2) Pass a written examination as evidence of knowledge of fire investigation. Certification as a fire investigator by the state fire marshal or other agencies approved by the state fire marshal shall constitute passing a written examination;

(3) Provide a background check from an authorized state law enforcement agency. The board shall conduct a complete investigation of the background of each applicant for licensure as a licensed private fire investigator or agency to determine whether the applicant is qualified for licensure pursuant to sections 324.600 to 324.635; and

(4) Pass any other basic qualification requirements as the board shall outline.

4. The board may deny a request for a license if the applicant has:

(1) Committed any act that, if committed by a licensee, would be grounds for the suspension or revocation of a license pursuant to the provisions of sections 324.600 to 324.635;

(2) 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 the United States for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated under this chapter or 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;

(3) Been refused a license pursuant to the provisions of sections 324.600 to 324.635 or had a license revoked in this state or in any other state;

(4) Prior to being licensed, committed, aided, or abetted the commission of any act that requires a license pursuant to sections 324.600 to 324.635; and

(5) Knowingly made any false statement in the application.

5. Every application submitted pursuant to the provisions of sections 324.600 to 324.635 shall be accompanied by a fee as determined by the board as follows:

(1) A separate fee shall be paid for an individual license, agency license, and employees being licensed to work under an agency license; and

(2) If a license is issued for a period of less than two years, the fee shall be prorated for the months, or fraction thereof, for which the license is issued.

6. All fees required pursuant to this section shall be paid to and collected by the division of fire safety and transmitted to the department of revenue for deposit in the state general revenue fund. The board shall set fees at a level to produce revenue that will not substantially exceed or fail to cover the costs and expenses of administering sections 324.600 to 324.635. These fees shall be exclusive and no municipality may require any person licensed pursuant to sections 324.600 to 324.635 to furnish any bond or pass any examination to practice as a licensed private fire investigator.

7. Renewal of a license shall be made in the manner prescribed by the board, including the payment of a renewal fee.**]**

[324.612. FORM OF LICENSE, CONTENTS — POSTING OF LICENSE — LICENSE CARD ISSUED. — 1. The board shall determine the form of the license which shall include:

(1) The name of the licensee;

(2) The name under which the licensee is to operate; and

(3) The 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.

3. Upon the issuance of the license, a pocket card of such size, design, and content as determined by the board shall be issued to each licensee. Such card shall be evidence that the licensee is licensed pursuant to the provisions of sections 324.600 to 324.635. 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 for cancellation.**]**

[324.615. AGENCY LICENSE REQUIREMENTS — LICENSEES RESPONSIBLE FOR CONDUCT OF EMPLOYEES AND AGENTS — MAINTAINING OF RECORDS. — 1. The owner of a company seeking any agency license must first be licensed as a private fire investigator. The agency may hire individuals to work for the agency whom shall conduct investigations for such agency only. Persons hired shall make application as determined by the board and shall meet all requirements set forth by the board. They shall not be required to meet any experience requirements and shall be allowed to begin work immediately. Employees shall attend an approved training program

within a time to be determined by the board and will be under the direct supervision of a licensed private fire investigator until all requirements are met.

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. A licensee is legally responsible for any acts committed by the licensee's employees or agents which are in violation of sections 324.600 to 324.635. A person receiving an agency license shall directly manage the agency and employees.

3. Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board. Such licensee shall file with the board the complete address of the licensee's principal place of business including the name and number of the street. The board may require the filing of other information for the purpose of identifying such principal place of business.**]**

[324.618. PROHIBITED ACTS. — No licensee or officer, director, partner, associate, or employee of the licensee 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 identification card, or make any statement with the intent to give an impression that such person is connected in any way with the federal or state government or any political subdivision of the federal or 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;

(6) Allow anyone other than the individual licensed by the state to conduct an investigation; or

(7) Assign or transfer a license issued pursuant to sections 324.600 to 324.635.**]**

[324.621. ADVERTISEMENT REQUIREMENTS. — 1. Every advertisement by a licensee soliciting or advertising business shall contain the licensee's name and address as they appear in the records of the board.

2. A licensee shall not advertise or conduct business from any address in this state other than that shown on the records of the board as the licensee's principal place of business unless the licensee has received a branch office certificate for such location after compliance with the provisions of sections 324.600 to 324.635 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.**]**

[324.624. SANCTIONING OF A LICENSE, WHEN — APPEAL PROCEDURE. — 1. The board may deny a request for a license, or may suspend or revoke a license issued pursuant to sections 324.600 to 324.635, or censure or place a license on probation if, after notice and opportunity for hearing in accordance with the provisions of chapter 621, the board determines the licensee has:

(1) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof;

(2) Violated any provisions of sections 324.600 to 324.635;

(3) Violated any rule of the board adopted pursuant to the authority contained in sections 324.600 to 324.635;

(4) Been convicted of a felony or been convicted of a crime involving moral turpitude;

(5) Impersonated, or permitted or aided and abetted an employee to impersonate, a law enforcement officer or employee of the United States, or of any state or political subdivision;

(6) Committed or permitted any employee to commit any act while the license was expired that could be cause for the suspension or revocation of any license, or grounds for the denial of an application for a license;

(7) Knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;

(8) Used any letterhead, advertisement, or other printed matter or in any manner representing that such person is an instrumentality of the federal or state government or any political subdivision of a federal or state government;

(9) Used a name different from that under which such person is currently licensed in any advertisement, solicitation, or contact for business; or

(10) Committed any act that is grounds for denial of an application for a license pursuant to the provisions of sections 324.600 to 324.635.

2. Any person whose license status is affected by any official action of the state fire marshal or board of licensed private fire investigator examiners, including, but not limited to, revocation, suspension, failure to renew a license, or refusal to grant a license, may seek a determination by the administrative hearing commission pursuant to the provisions of section 621.045. After the filing of a complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided 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 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.

3. A licensed private fire investigator agency may continue under the direction of another employee if the individual holding the license is suspended or revoked as approved by the board. The board shall establish a time from within which the licensed private fire investigator agency shall identify an acceptable person who is qualified to assume control of the agency as required by the board.**]**

[324.627. BOARD MAY SUBPOENA PERSONS AND DOCUMENTS — ENFORCEMENT OF SUBPOENAS — AUTHORITY TO ADMINISTER OATHS. — 1. For the purpose of enforcing the provisions of sections 324.600 to 324.635, or in making investigations relating to any violation thereof or to the character, competency, or integrity of the applicants or licensees, or for the purpose of investigating the business, business practices, or business methods of any applicant or licensee, or of the officers, directors, partners, or associates 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 that the board deems relative to the inquiry. A subpoena issued pursuant to this section shall be governed by this state's rules of civil procedure.

2. Any person subpoenaed who fails to obey such subpoena without reasonable cause or who without such cause refuses to be examined or to answer any legal or pertinent question as to the character or qualifications of such applicant or licensee or such applicant's or licensee's business, business practices, or methods or such violations shall be guilty of a class A misdemeanor.

3. The board may administer an oath 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. The testimony of witnesses in any investigative proceeding shall be under oath and willful. False swearing in such proceeding shall be perjury.**]**

[324.630. RULES. — 1. The board shall adopt such rules and regulations as may be necessary to carry out the provisions of sections 324.600 to 324.635.

2. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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.**]**

[324.635. FALSIFICATION OF FINGERPRINTS, PHOTOGRAPHS, OR INFORMATION, PENALTY. — Any person who knowingly falsifies the fingerprints or photographs or other information requested to be submitted pursuant to sections 324.600 to 324.635 is guilty of a class D felony. Any person who violates any other provisions of sections 324.600 to 324.635 is guilty of a class A misdemeanor.**]**

[324.1140. BOARD TO LICENSE PERSONS QUALIFIED TO TRAIN PRIVATE INVESTIGATORS, QUALIFICATIONS — APPLICATION PROCEDURE — CERTIFICATE GRANTED, WHEN — EXPIRATION OF CERTIFICATE. — 1. The board of private investigator examiners shall license persons who are qualified to train private investigators.

2. Persons wishing to become licensed 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.

3. A license shall be granted to a trainer if the board finds that the applicant:

(1) Has sufficient knowledge of private investigator business in order to train private investigators sufficiently;

(2) Has supplied all required information to the board; and

(3) Has paid the required fee.

4. The license issued under this section shall be valid for two years and shall be renewable biennially upon application and payment of the renewal fee established by the board. An application for renewal of license shall be mailed to every person to whom a license was issued or renewed during the current licensing period. The applicant shall complete the application and return it to the board by the renewal date with a renewal fee in an amount to be set by the board and with evidence of continuing education under section 324.1122. Any licensee who practices during the time the license has expired shall be considered engaging in prohibited acts under section 324.1104 and shall be subject to the penalties provided for the violation of the provisions of sections 324.1100 to 324.1148. If a person is otherwise eligible to renew the person's certification or license, the person may renew an expired certification or license within two years from the date of expiration. To renew such expired certificate or license, the person shall submit an application for renewal, pay the renewal fee, pay a delinquent renewal fee as established by the board, and present evidence in the form

prescribed by the board of having completed the continuing education requirements for renewal specified in section 324.1122. Upon a finding of extenuating circumstances, the commission may waive the payment of the delinquent fee. If a person has failed to renew the person's license within two years of its expiration, the license shall be void.**]**

[369.304. HEARINGS, HOW CONDUCTED. — The procedure in all hearings before the director of the division of finance shall be governed by, and conducted under, the provisions of chapter 536. The director may grant a hearing on any matter but shall be required to do so only where so directed in sections 369.010 to 369.369. Unless otherwise specifically provided by sections 369.010 to 369.369, any person who deems himself or herself aggrieved by any decision, order, or action of the director may appeal such decision and may receive a hearing before the state savings and loan commission as provided in section 369.319. All decisions of the director shall be final if not appealed to the commission as provided in section 369.319.**]**

[369.309. COMMISSION CREATED — MEMBERS, TERMS, COMPENSATION. — 1. There is created in the division of finance a "State Savings and Loan Commission" which shall have such powers and duties as are now or hereafter conferred upon it by law.

2. The commission shall consist of five members who shall be appointed by the governor. They shall be residents of this state, and one of them shall be a member of the Missouri Bar in good standing. The other members of the commission shall each have had at least five years' experience in this state as an officer or director of one or more associations. Not more than three members of the commission shall be members of the same political party.

3. The term of office of each member of the commission shall be six years. Members shall serve until their successors are duly appointed and have qualified. Each member of the state savings and loan commission shall serve for the remainder of the term for which the member was appointed to the commission. The commission shall select its own chairman and secretary. Vacancies in the commission shall be filled for the unexpired term in the same manner as in the case of an original appointment.

4. The members of the commission shall receive as compensation the sum of fifty dollars per day while discharging their duties, and they shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

5. A majority of the members of the commission shall constitute a quorum and the decision of a majority of a quorum shall be the decision of the commission. The commission shall meet upon call of its chairman, or of the director of the division of finance, or of any two members of the commission, and may meet at any place in this state.**]**

[369.319. APPEALS. — An appeal shall be perfected by filing with the director of the division of finance within fifteen days after notice of the director's decision is mailed, a notice of appeal stating the name of the appealing party and the order or decision appealed from. The director shall mail copies thereof to all interested parties. Upon any such hearing the transcript of the proceedings before the director or, if the decision appealed from was made without a hearing, all writings used or considered by the director in making such decision, shall be considered by the commission and the commission may take evidence, the taking of such evidence to be limited to newly discovered evidence in those appeals in which there was a hearing before the director and to be governed by the provisions of chapter 536. The review by the commission shall be similar to that provided in appeals in equity cases in the courts of this state.

Decisions shall be made as provided in chapter 536. The costs on appeal shall include the per diem compensation of the members of the commission and all such costs may be assessed against parties other than the director as may be determined by the commission. At least fifteen days' notice of the hearing shall be given to all persons interested in the matter appealed from and to the director.**]**

[630.900. STATE SUICIDE PREVENTION PLAN TO BE SUBMITTED TO GENERAL ASSEMBLY, WHEN — CONTENTS. — 1. The director of the department of mental health, in partnership with the department of health and senior services and in collaboration with the departments of social services, elementary and secondary education, higher education, and corrections, and other appropriate agencies, organizations, and institutions in the community, shall design a proposed state suicide prevention plan using an evidence-based public health approach focused on suicide prevention.

2. The plan shall include, but not be limited to:

(1) Promoting the use of employee assistance and workplace programs to support employees with depression and other psychiatric illnesses and substance abuse disorders, and refer them to services. In promoting such programs, the director shall collaborate with employer and professional associations, unions, and safety councils;

(2) Promoting the use of student assistance and educational programs to support students with depression and other psychiatric illnesses and substance abuse disorders. In promoting such programs, the director shall collaborate with educators, administrators, students, and parents with emphasis on identification of the risk factors associated with suicide;

(3) Providing training and technical assistance to local public health and other community-based professionals to provide for integrated implementation of best practices for preventing suicides;

(4) Establishing a toll-free suicide prevention hotline; and

(5) Coordinating with federal, state, and local agencies to collect, analyze, and annually issue a public report on Missouri-specific data on suicide and suicidal behaviors.

3. The proposed state suicide prevention plan designed and developed pursuant to this section shall be submitted to the general assembly by December 31, 2004, and shall include any recommendations regarding statutory changes and implementation and funding requirements of the plan.**]**

[630.910. SUICIDE PREVENTION ADVISORY COMMITTEE CREATED, MEMBERS, TERMS, MEETINGS, DUTIES. — 1. There is hereby created within the department of mental health the "Suicide Prevention Advisory Committee" to be comprised of the following eighteen members:

(1) Six representatives from each of the following state departments: mental health, health and senior services, social services, elementary and secondary education, corrections, and higher education;

(2) Ten citizen members representing suicide survivors, the criminal justice system, the business community, clergy, schools, youth, mental health professionals, health care providers, nonprofit organizations, and a researcher to be appointed by the governor;

(3) One member from the house of representatives to be appointed by the speaker of the house of representatives; and

(4) One member of the senate to be appointed by the president pro tem of the senate.

2. The initial appointments to the advisory committee shall be made by October 1, 2005. The initial ten members appointed under subdivision (2) of subsection 1 of this section shall be appointed as follows: four members shall be appointed for a four-year term, three members shall be appointed for a three-year term, and three members shall be appointed for a two-year term.

3. The first meeting of the advisory committee shall be scheduled by the director of the department of mental health and held on or before December 1, 2005. The committee shall meet at least quarterly thereafter. The director of the department of mental health, or the director's designee, shall be the chair of the advisory committee. Each of the departments listed in subdivision (1) of subsection 1 of this section shall provide staff and technical support for the advisory committee.

4. The advisory committee shall:

(1) Provide oversight, technical support, and outcome promotion for prevention activities;

(2) Develop annual goals and objectives for ongoing suicide prevention efforts;

(3) Make information on prevention and mental health intervention models available to community groups implementing suicide prevention programs;

(4) Promote the use of outcome methods that will allow comparison and evaluation of the efficacy, effectiveness, cultural competence, and cost-effectiveness of plan-supported interventions, including making specific recording and monitoring instruments available for plan-supported projects;

(5) Review and recommend changes to existing or proposed statutes, rules, and policies to prevent suicides; and

(6) Coordinate and issue a biannual report on suicide and suicidal behaviors in the state using information drawn from federal, state, and local sources.

5. Members of the committee shall serve without compensation but the ten citizen members may be reimbursed for any actual expenses incurred in the performance of their duties as members of the advisory committee.**]**

[630.915. FUNDING FOR PARTICIPATION IN THE NATIONAL VIOLENT DEATH REPORTING SYSTEM TO BE SOUGHT — STATE-BASED SYSTEM TO BE DEVELOPED, WHEN — USE OF INFORMATION — SUNSET PROVISION. — 1. The department of mental health, in consultation with the department of health and senior services, shall seek funding from the Centers for Disease Control and Prevention to participate in the National Violent Death Reporting System (NVDRS) to obtain better information about violent deaths, including suicide.

2. If such funding under subsection 1 of this section is not available to the state of Missouri, on or before July 1, 2006, the department of mental health, in consultation with the department of health and senior services and subject to appropriation, shall develop a state-based reporting system based on the National Violent Death Reporting System that will provide information needed to accurately assess the factors causing violent deaths, including suicide.

3. Information obtained from this state's participation in the National Violent Death Reporting System under subsection 1 of this section or the state-based system developed under subsection 2 of this section shall be used to help answer questions regarding the magnitude, trends, and characteristics of violent deaths and assist in the evaluation and improvement of violence prevention policies and programs.

4. Information obtained under this section shall be provided to the suicide prevention advisory committee established under section 630.910.

5. Pursuant to section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2005, 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.**]**

[701.302. ADVISORY COMMITTEE ON LEAD POISONING ESTABLISHED — MEMBERS — REPORT, RECOMMENDATIONS — COMPENSATION. — 1. There is hereby established the "Advisory Committee on Lead Poisoning". The members of the committee shall consist of twenty-seven persons who shall be appointed by the governor with the advice and consent of the senate, except as otherwise provided in this subsection. At least five of the members of the committee shall be African-Americans or representatives of other minority groups disproportionately affected by lead poisoning. The members of the committee shall include:

(1) The director of the department of health and senior services or the director's designee, who shall serve as an ex officio member;

(2) The director of the department of economic development or the director's designee, who shall serve as an ex officio member;

(3) The director of the department of natural resources or the director's designee, who shall serve as an ex officio member;

(4) The director of the department of social services or the director's designee, who shall serve as an ex officio member;

(5) The director of the department of labor and industrial relations or the director's designee, who shall serve as an ex officio member;

(6) One member of the senate, appointed by the president pro tempore of the senate, and one member of the house of representatives, appointed by the speaker of the house of representatives;

(7) A representative of the office of the attorney general, who shall serve as an ex officio member;

(8) A member of a city council, county commission or other local governmental entity;

(9) A representative of a community housing organization;

(10) A representative of property owners;

(11) A representative of the real estate industry;

(12) One representative of an appropriate public interest organization and one representative of a local public health agency promoting environmental health and advocating protection of children's health;

(13) A representative of the lead industry;

(14) A representative of the insurance industry;

(15) A representative of the banking industry;

(16) A parent of a currently or previously lead-poisoned child;

(17) A representative of the school boards association or an employee of the department of elementary and secondary education, selected by the commissioner of elementary and secondary education;

(18) Two representatives of the lead abatement industry, including one licensed lead abatement contractor and one licensed lead abatement worker;

(19) A physician licensed under chapter 334;

(20) A representative of a lead testing laboratory;

(21) A lead inspector or risk assessor;

(22) The chief engineer of the department of transportation or the chief engineer's designee, who shall serve as an ex officio member;

(23) A representative of a regulated industrial business; and

(24) A representative of a business organization.

2. The committee shall make recommendations relating to actions to:

(1) Eradicate childhood lead poisoning by the year 2012;

(2) Screen children for lead poisoning;

(3) Treat and medically manage lead-poisoned children;

(4) Prevent lead poisoning in children;

(5) Maintain and increase laboratory capacity for lead assessments and screening, and a quality control program for laboratories;

(6) Abate lead problems after discovery;

(7) Identify additional resources, either through a tax or fee structure, to implement programs necessary to address lead poisoning problems and issues;

(8) Provide an educational program on lead poisoning for the general public and health care providers;

(9) Determine procedures for the removal and disposal of all lead contaminated waste in accordance with the Toxic Substances Control Act, as amended, 42 U.S.C. 2681, et seq., solid waste and hazardous waste statutes, and any other applicable federal and state statutes and regulations.

3. The committee members shall receive no compensation but shall, subject to appropriations, be reimbursed for actual and necessary expenses incurred in the performance of their duties. All public members and local officials shall serve for a term of two years and until their successors are selected and qualified, and other members shall serve for as long as they hold the office or position from which they were appointed.

4. No later than December fifteenth of each year, the committee shall provide a written annual report of its recommendations for actions as required pursuant to subsection 2 of this section to the governor and general assembly, including any legislation proposed by the committee to implement the recommendations.

5. The committee shall submit records of its meetings to the secretary of the senate and the chief clerk of the house of representatives in accordance with sections 610.020 and 610.023.**]**

Approved July 8, 2011

HB 470 [SS SCS HCS HB 470 & 429]

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 nonresident entertainer and professional athletic team member income tax

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

SECTION

A. Enacting clause.

143.183. Professional athletes and entertainers, state income tax revenues from nonresidents — transfers to Missouri arts council trust fund, Missouri humanities council trust fund, Missouri state library networking

fund, Missouri public television broadcasting corporation special fund and Missouri historic preservation revolving fund.

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

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

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

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

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

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

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

2. Any person, venue, or entity who pays compensation to a nonresident entertainer shall deduct and withhold from such compensation as a prepayment of tax an amount equal to two percent of the total compensation if the amount of compensation is in excess of three hundred dollars paid to the nonresident entertainer. **For purposes of this section, the term "person, venue, or entity who pays compensation" shall not be construed to include any person, venue, or entity that is exempt from taxation under 26 U.S.C. Section 501(c)(3), as amended, and that pays an amount to the nonresident entertainer for the entertainer's appearance but receives no benefit from the entertainer's appearance other than the entertainer's performance.**

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

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

5. Notwithstanding other provisions of this chapter to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but none after December 31, 2015, shall annually estimate the amount of state income tax revenues collected

pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, sixty percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri arts council trust fund, and shall be transferred from the general revenue fund to the Missouri arts council trust fund established in section 185.100 and any amount transferred shall be in addition to such agency's budget base for each fiscal year. The director shall by rule establish the method of determining the portion of personal service income of such persons that is allocable to Missouri.

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

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

8. Notwithstanding other provisions of section 185.200 to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri public television broadcasting corporation special fund, and shall be transferred from the general revenue fund to the Missouri public television broadcasting corporation special fund, and any amount transferred shall be in addition to such agency's budget base for each fiscal year; provided, however, that twenty-five percent of such allocation shall be used for grants to public radio stations which were qualified by the corporation for public broadcasting as of November 1, 1996. Such grants shall be distributed to each of such public radio stations in this state after receipt of the station's certification of operating and programming expenses for the prior fiscal year. Certification shall consist of the most recent fiscal year financial statement submitted by a station to the corporation for public broadcasting. The grants shall be divided into two categories, an annual basic service grant and an operating grant. The basic service grant shall be equal to thirty-five percent of the total amount and shall be divided equally among the public radio stations receiving grants. The remaining amount shall be distributed as an operating grant to the stations on the basis of the proportion that the total operating expenses of the

individual station in the prior fiscal year bears to the aggregate total of operating expenses for the same fiscal year for all Missouri public radio stations which are receiving grants.

9. Notwithstanding other provisions of section 253.402 to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri department of natural resources Missouri historic preservation revolving fund, and shall be transferred from the general revenue fund to the Missouri department of natural resources Missouri historic preservation revolving fund established in section 253.402 and any amount transferred shall be in addition to such agency's budget base for each fiscal year. As authorized pursuant to subsection 2 of section 30.953, it is the intention and desire of the general assembly that the state treasurer convey, to the Missouri investment trust on January 1, 1999, up to one hundred percent of the balances of the Missouri arts council trust fund established pursuant to section 185.100 and the Missouri humanities council trust fund established pursuant to section 186.055. The funds shall be reconveyed to the state treasurer by the investment trust as follows: the Missouri arts council trust fund, no earlier than January 2, 2009; and the Missouri humanities council trust fund, no earlier than January 2, 2009.

Approved July 1, 2011

HB 499 [HB 499]

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 certain licensed professional counselors to the list of persons who can report anyone diagnosed or assessed with a condition that may prevent the safe operation of a motor vehicle

AN ACT to repeal section 302.291, RSMo, and to enact in lieu thereof one new section relating to driver's license competency assessment, with an existing penalty provision.

SECTION

A. Enacting clause.
302.291. Incompetent or unqualified operators, director may require examination, when — report permitted, when, by whom, contents, immunity from liability — confidentiality, penalty — rules — appeal — reinstatement.

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

SECTION A. ENACTING CLAUSE. — Section 302.291, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 302.291, to read as follows:

302.291. INCOMPETENT OR UNQUALIFIED OPERATORS, DIRECTOR MAY REQUIRE EXAMINATION, WHEN — REPORT PERMITTED, WHEN, BY WHOM, CONTENTS, IMMUNITY FROM LIABILITY — CONFIDENTIALITY, PENALTY — RULES — APPEAL — REINSTATEMENT. — 1. The director, having good cause to believe that an operator is incompetent or unqualified to retain his or her license, after giving ten days' notice in writing by certified mail directed to such person's present known address, may require the person to submit to an examination as

prescribed by the director. Upon conclusion of the examination, the director may allow the person to retain his or her license, may suspend, deny or revoke the person's license, or may issue the person a license subject to restrictions as provided in section 302.301. If an examination indicates a condition that potentially impairs safe driving, the director, in addition to action with respect to the license, may require the person to submit to further periodic examinations. The refusal or neglect of the person to submit to an examination within thirty days after the date of such notice shall be grounds for suspension, denial or revocation of the person's license by the director, an associate circuit or circuit court. Notice of any suspension, denial, revocation or other restriction shall be provided by certified mail. As used in this section, the term "denial" means the act of not licensing a person who is currently suspended, revoked or otherwise not licensed to operate a motor vehicle. Denial may also include the act of withdrawing a previously issued license.

2. The examination provided for in subsection 1 of this section may include, but is not limited to, a written test and tests of driving skills, vision, highway sign recognition and, if appropriate, a physical and/or mental examination as provided in section 302.173.

3. The director shall have good cause to believe that an operator is incompetent or unqualified to retain such person's license on the basis of, but not limited to, a report by:

(1) Any certified peace officer;

(2) Any physician, physical therapist or occupational therapist licensed pursuant to chapter 334; any chiropractic physician licensed pursuant to chapter 331; any registered nurse licensed pursuant to chapter 335; any psychologist **[**or**] ,** social worker **or professional counselor** licensed pursuant to chapter 337; any optometrist licensed pursuant to chapter 336; or

(3) Any member of the operator's family within three degrees of consanguinity, or the operator's spouse, who has reached the age of eighteen, except that no person may report the same family member pursuant to this section more than one time during a twelve-month period. The report must state that the person reasonably and in good faith believes the driver cannot safely operate a motor vehicle and must be based upon personal observation or physical evidence which shall be described in the report, or the report shall be based upon an investigation by a law enforcement officer. The report shall be a written declaration in the form prescribed by the department of revenue and shall contain the name, address, telephone number, and signature of the person making the report.

4. Any physician, physical therapist or occupational therapist licensed pursuant to chapter 334, any chiropractor licensed pursuant to chapter 331, any registered nurse licensed pursuant to chapter 335, any psychologist **[**or**] ,** social worker **or professional counselor** licensed pursuant to chapter 337, or any optometrist licensed pursuant to chapter 336 may report to the department any patient diagnosed or assessed as having a disorder or condition that may prevent such person from safely operating a motor vehicle. Such report shall state the diagnosis or assessment and whether the condition is permanent or temporary. The existence of a physician-patient relationship shall not prevent the making of a report by such medical professionals.

5. Any person who makes a report in good faith pursuant to this section shall be immune from any civil liability that otherwise might result from making the report. Notwithstanding the provisions of chapter 610 to the contrary, all reports made and all medical records reviewed and maintained by the department of revenue pursuant to this section shall be kept confidential except upon order of a court of competent jurisdiction or in a review of the director's action pursuant to section 302.311.

6. The department of revenue shall keep records and statistics of reports made and actions taken against driver's licenses pursuant to this section.

7. The department of revenue shall, in consultation with the medical advisory board established by section 302.292, develop a standardized form and provide guidelines for the reporting of cases and for the examination of drivers pursuant to this section. The guidelines shall be published and adopted as required for rules and regulations pursuant to chapter 536. The department of revenue shall also adopt rules and regulations as necessary to carry out the

other provisions of this section. The director of revenue shall provide health care professionals and law enforcement officers with information about the procedures authorized in this section. The guidelines and regulations implementing this section shall be in compliance with the federal Americans with Disabilities Act of 1990.

8. Any person who knowingly violates a confidentiality provision of this section or who knowingly permits or encourages the unauthorized use of a report or reporting person's name in violation of this section shall be guilty of a class A misdemeanor and shall be liable for damages which proximately result.

9. Any person who intentionally files a false report pursuant to this section shall be guilty of a class A misdemeanor and shall be liable for damages which proximately result.

10. All appeals of license revocations, suspensions, denials and restrictions shall be made as required pursuant to section 302.311 within thirty days after the receipt of the notice of revocation, suspension, denial or restriction.

11. Any individual whose condition is temporary in nature as reported pursuant to the provisions of subsection 4 of this section shall have the right to petition the director of the department of revenue for total or partial reinstatement of his or her license. Such request shall be made on a form prescribed by the department of revenue and accompanied by a statement from a health care provider with the same or similar license as the health care provider who made the initial report resulting in the limitation or loss of the driver's license. Such petition shall be decided by the director of the department of revenue within thirty days of receipt of the petition. Such decision by the director is appealable pursuant to subsection 10 of this section.

Approved June 17, 2011

HB 506 [SCS HCS HB 506]

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 property tax levies

AN ACT to repeal sections 137.073, 137.082, and 238.202, RSMo, and to enact in lieu thereof three new sections relating to property tax levy revisions.

SECTION

A. Enacting clause.
137.073. Definitions — revision of prior levy, when, procedure — calculation of state aid for public schools, taxing authority's duties.
137.082. New construction, assessment of upon occupancy, how — payment of taxes, when — county assessor, duties — county option — natural disasters, assessment reduction allowed, effect.
238.202. Definitions.

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

SECTION A. ENACTING CLAUSE. — Section 137.073, 137.082, and 238.202, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 137.073, 137.082, and 238.202, to read as follows:

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

(1) "General reassessment", changes in value, entered in the assessor's books, of a substantial portion of the parcels of real property within a county resulting wholly or partly from

reappraisal of value or other actions of the assessor or county equalization body or ordered by the state tax commission or any court;

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

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

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

2. Whenever changes in assessed valuation are entered in the assessor's books for any personal property, in the aggregate, or for any subclass of real property as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, the county clerk in all counties and the assessor of St. Louis City shall notify each political subdivision wholly or partially within the county or St. Louis City of the change in valuation of each subclass of real property, individually, and personal property, in the aggregate, exclusive of new construction and improvements. All political subdivisions shall immediately revise the applicable rates of levy for each purpose for each subclass of real property, individually, and personal property, in the aggregate, for which taxes are levied to the extent necessary to produce from all taxable property, exclusive of new construction and improvements, substantially the same amount of tax revenue as was produced in the previous year for each subclass of real property, individually, and personal property, in the aggregate, except that the rate [may] **shall** not exceed **the greater of** the most recent voter-approved rate **or the most recent voter-approved rate as adjusted under subdivision (2) of subsection 5 of this section. Any political subdivision that has received approval from voters for a tax increase after August 27, 2008, may levy a rate to collect substantially the same amount of tax revenue as the amount of revenue that would have been derived by applying the voter-approved increased tax rate ceiling to the total assessed valuation of the political subdivision as most recently certified by the city or county clerk on or before the date of the election in which such increase is approved, increased by the percentage increase in the consumer price index, as provided by law, except that the rate shall not exceed the greater of the most**

recent voter-approved rate or the most recent voter-approved rate as adjusted under subdivision (2) of subsection 5 of this section. Such tax revenue shall not include any receipts from ad valorem levies on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property. Where the taxing authority is a school district for the purposes of revising the applicable rates of levy for each subclass of real property, the tax revenues from state-assessed railroad and utility property shall be apportioned and attributed to each subclass of real property based on the percentage of the total assessed valuation of the county that each subclass of real property represents in the current taxable year. As provided in section 22 of article X of the constitution, a political subdivision may also revise each levy to allow for inflationary assessment growth occurring within the political subdivision. The inflationary growth factor for any such subclass of real property or personal property shall be limited to the actual assessment growth in such subclass or class, exclusive of new construction and improvements, and exclusive of the assessed value on any real property which was assessed by the assessor of a county or city in the current year in a different subclass of real property, but not to exceed the consumer price index or five percent, whichever is lower. Should the tax revenue of a political subdivision from the various tax rates determined in this subsection be different than the tax revenue that would have been determined from a single tax rate as calculated pursuant to the method of calculation in this subsection prior to January 1, 2003, then the political subdivision shall revise the tax rates of those subclasses of real property, individually, and/or personal property, in the aggregate, in which there is a tax rate reduction, pursuant to the provisions of this subsection. Such revision shall yield an amount equal to such difference and shall be apportioned among such subclasses of real property, individually, and/or personal property, in the aggregate, based on the relative assessed valuation of the class or subclasses of property experiencing a tax rate reduction. Such revision in the tax rates of each class or subclass shall be made by computing the percentage of current year adjusted assessed valuation of each class or subclass with a tax rate reduction to the total current year adjusted assessed valuation of the class or subclasses with a tax rate reduction, multiplying the resulting percentages by the revenue difference between the single rate calculation and the calculations pursuant to this subsection and dividing by the respective adjusted current year assessed valuation of each class or subclass to determine the adjustment to the rate to be levied upon each class or subclass of property. The adjustment computed herein shall be multiplied by one hundred, rounded to four decimals in the manner provided in this subsection, and added to the initial rate computed for each class or subclass of property. **For school districts that levy separate tax rates on each subclass of real property and personal property in the aggregate, if voters approved a ballot before January 1, 2011, that presented separate stated tax rates to be applied to the different subclasses of real property and personal property in the aggregate, or increases the separate rates that may be levied on the different subclasses of real property and personal property in the aggregate by different amounts, the tax rate that shall be used for the single tax rate calculation shall be a blended rate, calculated in the manner provided under subdivision (1) of subsection 6 of this section.** Notwithstanding any provision of this subsection to the contrary, no revision to the rate of levy for personal property shall cause such levy to increase over the levy for personal property from the prior year.

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

required a lower rate if the actual information had been known, the school district shall reduce the tax rate ceiling in the following year to compensate for the excess receipts, and the recalculated rate shall become the tax rate ceiling for purposes of this section.

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

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

(b) In addition, for up to three years following the determination of the reduction in assessed valuation as a result of circumstances defined in this subdivision, such political subdivision may levy a tax rate for each purpose it levies taxes above the revised tax rate ceiling provided in paragraph (a) of this subdivision to recoup any revenues it was entitled to receive had the corrected or finalized assessment been available at the time of the prior calculation.

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

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

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

(2) When voters approve an increase in the tax rate, the amount of the increase shall be added to the tax rate ceiling as calculated pursuant to this section to the extent the total rate does not exceed any maximum rate prescribed by law. If a ballot question presents a stated tax rate for approval rather than describing the amount of increase in the question, the stated tax rate approved shall be adjusted as provided in this section and, so adjusted, shall be the current tax rate ceiling. The increased tax rate ceiling as approved shall be adjusted such that when applied to the current total assessed valuation of the political subdivision, excluding new construction and improvements since the date of the election approving such increase, the revenue derived from the adjusted tax rate ceiling is equal to the sum of: the amount of revenue which would have been derived by applying the voter-approved increased tax rate ceiling to total assessed valuation of the political subdivision, as most recently certified by the city or county clerk on or before the date of the election in which such increase is approved, increased by the percentage increase in the consumer price index, as provided by law. Such adjusted tax rate ceiling may be applied to the total assessed valuation of the political subdivision at the setting of the next tax rate. If a ballot question presents a phased-in tax rate increase, upon voter approval, each tax rate increase shall be adjusted in the manner prescribed in this section to yield the sum of: the amount of revenue that would be derived by applying such voter-approved increased rate to the total assessed valuation, as most recently certified by the city or county clerk on or before the date of the election in which such increase was approved, increased by the percentage increase in the consumer price index, as provided by law, from the date of the election to the time of such increase and, so adjusted, shall be the current tax rate ceiling.

(3) The governing body of any political subdivision may levy a tax rate lower than its tax rate ceiling and may, in a nonreassessment year, increase that lowered tax rate to a level not exceeding the tax rate ceiling without voter approval in the manner provided under subdivision (4) of this subsection. Nothing in this section shall be construed as prohibiting a political subdivision from voluntarily levying a tax rate lower than that which is required under the provisions of this section or from seeking voter approval of a reduction to such political subdivision's tax rate ceiling.

(4) In a year of general reassessment, a governing body whose tax rate is lower than its tax rate ceiling shall revise its tax rate pursuant to the provisions of subsection 4 of this section as if its tax rate was at the tax rate ceiling. In a year following general reassessment, if such governing body intends to increase its tax rate, the governing body shall conduct a public hearing, and in a public meeting it shall adopt an ordinance, resolution, or policy statement justifying its action

prior to setting and certifying its tax rate. The provisions of this subdivision shall not apply to any political subdivision which levies a tax rate lower than its tax rate ceiling solely due to a reduction required by law resulting from sales tax collections. The provisions of this subdivision shall not apply to any political subdivision which has received voter approval for an increase to its tax rate ceiling subsequent to setting its most recent tax rate.

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

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

supporting information which justifies the taxing authority's original or any subsequent proposed tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the attorney general's office and the attorney general is authorized to obtain injunctive relief to prevent the taxing authority from levying a violative tax rate.

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

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

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

10. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

137.082. NEW CONSTRUCTION, ASSESSMENT OF UPON OCCUPANCY, HOW — PAYMENT OF TAXES, WHEN — COUNTY ASSESSOR, DUTIES — COUNTY OPTION — NATURAL DISASTERS,

ASSESSMENT REDUCTION ALLOWED, EFFECT. — 1. Notwithstanding the provisions of sections 137.075 and 137.080 to the contrary, a building or other structure classified as residential property pursuant to section 137.016 newly constructed and occupied on any parcel of real property shall be assessed and taxed on such assessed valuation as of the first day of the month following the date of occupancy for the proportionate part of the remaining year at the tax rates established for that year, in all taxing jurisdictions located in the county adopting this section as provided in subsection 8 of this section. Newly constructed residential property which has never been occupied shall not be assessed as improved real property until such occupancy or the first day of January of the **[**second**]** **fourth** year following the year in which construction of the improvements was completed. **The provisions of this subsection shall apply in those counties including any city not within a county in which the governing body has previously adopted or hereafter adopts the provisions of this subsection.**

2. The assessor may consider a property residentially occupied upon personal verification or when any two of the following conditions have been met:

(1) An occupancy permit has been issued for the property;

(2) A deed transferring ownership from one party to another has been filed with the recorder of deeds' office subsequent to the date of the first permanent utility service;

(3) A utility company providing service in the county has verified a transfer of service for property from one party to another;

(4) The person or persons occupying the newly constructed property has registered a change of address with any local, state or federal governmental office or agency.

3. In implementing the provisions of this section, the assessor may use occupancy permits, building permits, warranty deeds, utility connection documents, including telephone connections, or other official documents as may be necessary to discover the existence of newly constructed properties. No utility company shall refuse to provide verification monthly to the assessor of a utility connection to a newly occupied single family building or structure.

4. In the event that the assessment under subsections 1 and 2 of this section is not completed until after the deadline for filing appeals in a given tax year, the owner of the newly constructed property who is aggrieved by the assessment of the property may appeal this assessment the following year to the county board of equalization in accordance with chapter 138 and may pay any taxes under protest in accordance with section 139.031; provided however, that such payment under protest shall not be required as a condition of appealing to the county board of equalization. The collector shall impound such protested taxes and shall not disburse such taxes until resolution of the appeal.

5. The increase in assessed valuation resulting from the implementation of the provisions of this section shall be considered new construction and improvements under the provisions of this chapter.

6. In counties which adopt the provisions of subsections 1 to 7 of this section, an amount not to exceed ten percent of all ad valorem property tax collections on newly constructed and occupied residential property allocable to each taxing authority within counties of the first classification having a population of nine hundred thousand or more, one-tenth of one percent of all ad valorem property tax collections allocable to each taxing authority within all other counties of the first classification and one-fifth of one percent of all ad valorem property tax collections allocable to each taxing authority within counties of the second, third and fourth classifications and any county of the first classification having a population of at least eighty-two thousand inhabitants, but less than eighty-two thousand one hundred inhabitants, in addition to the amount prescribed by section 137.720 shall be deposited into the assessment fund of the county for collection costs.

7. For purposes of figuring the tax due on such newly constructed residential property, the assessor or the board of equalization shall place the full amount of the assessed valuation on the tax book upon the first day of the month following occupancy. Such assessed valuation shall be taxed for each month of the year following such date at its new assessed valuation, and for

each month of the year preceding such date at its previous valuation. The percentage derived from dividing the number of months at which the property is taxed at its new valuation by twelve shall be applied to the total assessed valuation of the new construction and improvements, and such product shall be included in the next year's base for the purposes of figuring the next year's tax levy rollback. The untaxed percentage shall be considered as new construction and improvements in the following year and shall be exempt from the rollback provisions.

8. Subsections 1 to 7 of this section shall be effective in those counties including any city not within a county in which the governing body of such county elects to adopt a proposal to implement the provisions of subsections 1 to 7 of this section. Such subsections shall become effective in such county on the first day of January of the year following such election.

9. In any county which adopts the provisions of subsections 1 to 7 of this section prior to the first day of June in any year pursuant to subsection 8 of this section, the assessor of such county shall, upon application of the property owner, remove on a pro rata basis from the tax book for the current year any residential real property improvements destroyed by a natural disaster if such property is unoccupied and uninhabitable due to such destruction. On or after the first day of July, the board of equalization shall perform such duties. Any person claiming such destroyed property shall provide a list of such destroyed property to the county assessor. The assessor shall have available a supply of appropriate forms on which the claim shall be made. The assessor may verify all such destroyed property listed to ensure that the person made a correct statement. Any person who completes such a list and, with intent to defraud, includes property on the list that was not destroyed by a natural disaster shall, in addition to any other penalties provided by law, be assessed double the value of any property fraudulently listed. The list shall be filed by the assessor, after he has provided a copy of the list to the county collector and the board of equalization, in the office of the county clerk who, after entering the filing thereof, shall preserve and safely keep them. If the assessor, subsequent to such destruction, considers such property occupied as provided in subsection 2 of this section, the assessor shall consider such property new construction and improvements and shall assess such property accordingly as provided in subsection 1 of this section. For the purposes of this section, the term "natural disaster" means any disaster due to natural causes such as tornado, fire, flood, or earthquake.

10. Any political subdivision may recover the loss of revenue caused by subsection 9 of this section by adjusting the rate of taxation, to the extent previously authorized by the voters of such political subdivision, for the tax year immediately following the year of such destruction in an amount not to exceed the loss of revenue caused by this section.

238.202. DEFINITIONS. — 1. As used in sections 238.200 to 238.275, the following terms mean:

(1) "Board", the board of directors of a district;

(2) "Commission", the Missouri highways and transportation commission;

(3) "District", a transportation development district organized under sections 238.200 to 238.275;

(4) "Local transportation authority", a county, city, town, village, county highway commission, special road district, interstate compact agency, or any local public authority or political subdivision having jurisdiction over any bridge, street, highway, dock, wharf, ferry, lake or river port, airport, railroad, light rail or other transit improvement or service;

(5) "Project" includes any bridge, street, road, highway, access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail, or other mass transit and any similar or related improvement or infrastructure.

2. For the purposes of sections 11(c), 16 and 22 of article X of the Constitution of Missouri, section 137.073, and as used in sections 238.200 to 238.275, the following terms shall have the meanings given:

(1) "Approval of the required majority" or "direct voter approval", a simple majority;

(2) "Qualified electors", "qualified voters" or "voters":

(a) Within a proposed or established district, except for a district proposed under subsection 1 of section 238.207, any persons residing therein who have registered to vote pursuant to chapter 115; or

(b) Within a district proposed or established under **[**subsection 1**] subsections 1 or 5** of section 238.207 which has no persons residing therein who have registered to vote pursuant to chapter 115, the owners of record of all real property located in the district, who shall receive one vote per acre, provided that if a registered voter subsequent to the creation of the district becomes a resident within the district and obtains ownership of property within the district, such registered voter must elect whether to vote as an owner of real property or as a registered voter, which election once made cannot thereafter be changed;

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

Approved July 5, 2011

HB 550 [HB 550]

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 liens and encumbrances on motor vehicles, trailers, watercraft, and manufactured homes

AN ACT to repeal sections 301.600, 306.400, and 700.350, RSMo, and to enact in lieu thereof three new sections relating to liens and encumbrances.

SECTION

A. Enacting clause.
301.600. Liens and encumbrances, how perfected — effect of on vehicles and trailers brought into state — security procedures for verifying electronic notices.
306.400. Liens and encumbrances — valid, perfected, when, how, future advances — boats and motors subject to, when, how determined — revenue to establish security procedure, electronic notices, rulemaking authority.
700.350. Liens and encumbrances — valid, perfected, when, how — home subject to, when, how determined — security procedures — validity of prior transactions.

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

SECTION A. ENACTING CLAUSE. — Sections 301.600, 306.400, and 700.350, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 301.600, 306.400, and 700.350, to read as follows:

301.600. LIENS AND ENCUMBRANCES, HOW PERFECTED — EFFECT OF ON VEHICLES AND TRAILERS BROUGHT INTO STATE — SECURITY PROCEDURES FOR VERIFYING ELECTRONIC NOTICES. — 1. Unless excepted by section 301.650, a lien or encumbrance on a motor vehicle or trailer, as defined by section 301.010, is not valid against subsequent transferees or lienholders of the motor vehicle or trailer who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 301.600 to 301.660.

2. Subject to the provisions of section 301.620, a lien or encumbrance on a motor vehicle or trailer is perfected by the delivery to the director of revenue of a notice of a lien in a format as prescribed by the director of revenue. **The notice of lien is perfected as of the time of its**

creation if the delivery of such notice to the director of revenue is completed within thirty days thereafter, otherwise as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the motor vehicle or trailer and the secured party, a description of the motor vehicle or trailer, including the vehicle identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of such notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.

3. Notwithstanding the provisions of section 301.620, on a refinance of a loan secured by a motor vehicle or trailer a lien is perfected by the delivery to the director of revenue of a notice of lien completed by the refinancing lender in a format prescribed by the director of revenue.

4. To perfect a subordinate lien, the notice of lien must be accompanied by the documents required to be delivered to the director pursuant to subdivision (3) of section 301.620. **[**The notice of lien is perfected as of the time of its creation if the delivery of such notice to the director of revenue is completed within thirty days thereafter, otherwise as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the motor vehicle or trailer and the secured party, a description of the motor vehicle or trailer, including the vehicle identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of such notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.

3.**] 5.** Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" on the notice of lien and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one notice of lien. To secure future advances when an existing lien on a motor vehicle or trailer does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows: proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted for by the department of revenue, and returned to the lienholder.

[4.**] 6.** If a motor vehicle or trailer is subject to a lien or encumbrance when brought into this state, the validity and effect of the lien or encumbrance is determined by the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrance attached that the motor vehicle or trailer would be kept in this state and it was brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state is determined by the law of this state;

(2) If the lien or encumbrance was perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state three months after a first certificate of ownership of the motor vehicle or trailer is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period; in that case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, it may be perfected in this state; in that case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection either as provided in subsection 2 or 3 of this section or by the lienholder delivering to the director of revenue a notice of lien or encumbrance in the form the director of revenue prescribes and the required fee.

[5.**] 7.** By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction of a lien on a motor vehicle or trailer given as permitted in sections 301.600 to 301.640 is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in section 301.610 is that of the director of revenue, and detecting error in the transmission or the content of any such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

306.400. LIENS AND ENCUMBRANCES — VALID, PERFECTED, WHEN, HOW, FUTURE ADVANCES — BOATS AND MOTORS SUBJECT TO, WHEN, HOW DETERMINED — REVENUE TO ESTABLISH SECURITY PROCEDURE, ELECTRONIC NOTICES, RULEMAKING AUTHORITY. — 1. As used in sections 306.400 to 306.440, the terms "motorboat", "vessel", and "watercraft" shall have the same meanings given them in section 306.010, and the term "outboard motor" shall include outboard motors governed by section 306.530.

2. Unless excepted by section 306.425, a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft shall not be valid against subsequent transferees or lienholders of the outboard motor, motorboat, vessel or watercraft, who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 306.400 to 306.430.

3. A lien or encumbrance on an outboard motor, motorboat, vessel or watercraft is perfected by the delivery to the director of revenue of a notice of lien in a format as prescribed by the director. Such lien or encumbrance shall be perfected as of the time of its creation if the delivery of the items required in this subsection to the director of revenue is completed within thirty days thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the outboard motor, motorboat, vessel or watercraft and the secured party, a description of the outboard motor, motorboat, vessel or watercraft motor, including any identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of each notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien.

4. **Notwithstanding the provisions of section 306.410, on a refinance of a loan secured by an outboard motor, motorboat, vessel or watercraft, a lien is perfected by the delivery to the director of revenue of a notice of lien completed by the refinancing lender in a format prescribed by the director of revenue.**

5. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" in the second lienholder's portion of the notice of lien. To secure future advances when an existing lien on an outboard motor, motorboat, vessel or watercraft does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows. Proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted for by the department of revenue, and returned to the lienholder.

[5.**] 6.** Whether an outboard motor, motorboat, vessel, or watercraft is subject to a lien or encumbrance shall be determined by the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrances attached that the outboard motor, motorboat, vessel, or watercraft would be kept in this state and it is brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state shall be determined by the laws of this state;

(2) If the lien or encumbrance was perfected pursuant to the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, his or her lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by the jurisdiction, the lien or encumbrance continues perfected in this state for three months after the first certificate of title of the outboard motor, motorboat, vessel, or watercraft is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period, in which case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, it may be perfected in this state, in which case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection in the same manner as provided in subsection 3 of this section.

[6.**] 7.** The director of revenue shall by rules and regulations establish a security procedure to verify that an electronic notice or lien or notice of satisfaction of a lien on an outboard motor, motorboat, vessel or watercraft given pursuant to sections 306.400 to 306.440 is that of the lienholder, to verify that an electronic notice of confirmation of ownership and perfection of a lien given pursuant to section 306.410 is that of the director of revenue and to detect error in the transmission or the content of any such notice. Such a security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself constitute a security procedure.

700.350. LIENS AND ENCUMBRANCES — VALID, PERFECTED, WHEN, HOW — HOME SUBJECT TO, WHEN, HOW DETERMINED — SECURITY PROCEDURES — VALIDITY OF PRIOR TRANSACTIONS. — 1. As used in sections 700.350 to 700.390, the term manufactured home shall have the same meaning given it in section 400.9-102(a)(53).

2. Unless excepted by section 700.375, a lien or encumbrance, including a security interest under article 9 of chapter 400, on a manufactured home shall not be valid against subsequent transferees or lienholders of the manufactured home who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 700.350 to 700.380.

3. A lien or encumbrance on a manufactured home is perfected by the delivery to the director of revenue of a notice of lien in a format as prescribed by the director of revenue. Such lien or encumbrance shall be perfected as of the time of its creation if the delivery of the notice of lien required in this subsection to the director of revenue is completed within thirty days thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the delivery; provided, however, that a purchase money security interest in a manufactured home under article 9 of chapter 400 is perfected against the rights of judicial lien creditors and execution creditors on and after the date such purchase money security interest attaches; and further provided that the holder of a security interest in or a lien on a manufactured home may deliver lien release documents to any person to facilitate conveying or encumbering the manufactured home. Any person receiving any such documents so delivered holds the documents in trust for the security interest holder or the lienholder. A notice of lien shall contain the name and address of the owner of the manufactured home and the secured party, a description of the manufactured home, including any identification number and such other information as the department of revenue shall prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

4. Notwithstanding the provisions of section 700.360, on a refinance of a loan secured by a manufactured home, a lien is perfected by the delivery to the director of revenue of a notice of lien completed by the refinancing lender in a format prescribed by the director of revenue.

5. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" in the notice of lien and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one lien. To secure future advances when an existing lien on a manufactured home does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows: proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted by the department of revenue, and returned to the lienholder.

[4.**]** **6.** Whether a manufactured home is subject to a lien or encumbrance shall be determined by the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrances attached that the manufactured home would be kept in this state and it is brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state shall be determined by the laws of this state;

(2) If the lien or encumbrance was perfected under the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, his lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by the jurisdiction, the lien or encumbrance continues perfected in this state for three months after the first certificate of title of the manufactured home is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance

may also be perfected in this state after the expiration of the three-month period, in which case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected under the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, it may be perfected in this state, in which case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected under paragraph (b) of subdivision (2) or subdivision (3) of this subsection in the same manner as provided in subsection 3 **or 4** of this section or by the lienholder delivering to the director of revenue a notice of lien or encumbrance in the form the director prescribes and the required fee.

[5.**] 7.** By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction of lien on a manufactured home given as permitted in this chapter is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in this chapter is that of the director of revenue, and detecting error in the transmission or the content of such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

[6.**] 8.** All transactions involving liens or encumbrances on manufactured homes perfected pursuant to sections 700.350 to 700.390 after June 30, 2001, and before August 28, 2002, and the rights, duties, and interests flowing from them are and shall remain valid thereafter and may be terminated, completed, consummated, or enforced as required or permitted by section 400.9-303. Section 400.9-303 and this section are remedial in nature and shall be given that construction.

[7.**] 9.** Except as otherwise provided in section 442.015, subsections 1 and 2 of section 700.111, subsection 2 of section 700.360, and subsection 2 of section 700.375, after a certificate of title has been issued to a manufactured home and as long as the manufactured home is subject to any security interest perfected under this section, the department shall not file an affidavit of affixation, nor cancel the manufacturer's certificate of origin, nor revoke the certificate of title, and, in any event, the validity and priority of any security interest perfected under this section shall continue, notwithstanding the provision of any other law.

Approved July 1, 2011

HB 552 [SCS HCS HB 552]

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 State Board of Pharmacy to establish rules governing the standard of care for pharmacies dispensing blood clotting therapies

AN ACT to repeal section 208.152, RSMo, and to enact in lieu thereof two new sections relating to the standard of care for the treatment of persons with bleeding disorders.

SECTION

A. Enacting clause.
208.152. Medical services for which payment will be made — co-payments may be required — reimbursement for services.
338.400. Standard of care, definitions, rules.

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

SECTION A. ENACTING CLAUSE. — Section 208.152, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 208.152 and 338.400, to read as follows:

208.152. MEDICAL SERVICES FOR WHICH PAYMENT WILL BE MADE — CO-PAYMENTS MAY BE REQUIRED — REIMBURSEMENT FOR SERVICES. — 1. MO HealthNet payments shall be made on behalf of those eligible needy persons as defined in section 208.151 who are unable to provide for it in whole or in part, with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the MO HealthNet division, unless otherwise hereinafter provided, for the following:

(1) Inpatient hospital services, except to persons in an institution for mental diseases who are under the age of sixty-five years and over the age of twenty-one years; provided that the MO HealthNet division shall provide through rule and regulation an exception process for coverage of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile professional activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay schedule; and provided further that the MO HealthNet division shall take into account through its payment system for hospital services the situation of hospitals which serve a disproportionate number of low-income patients;

(2) All outpatient hospital services, payments therefor to be in amounts which represent no more than eighty percent of the lesser of reasonable costs or customary charges for such services, determined in accordance with the principles set forth in Title XVIII A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. 301, et seq.), but the MO HealthNet division may evaluate outpatient hospital services rendered under this section and deny payment for services which are determined by the MO HealthNet division not to be medically necessary, in accordance with federal law and regulations;

(3) Laboratory and X-ray services;

(4) Nursing home services for participants, except to persons with more than five hundred thousand dollars equity in their home or except for persons in an institution for mental diseases who are under the age of sixty-five years, when residing in a hospital licensed by the department of health and senior services or a nursing home licensed by the department of health and senior services or appropriate licensing authority of other states or government-owned and -operated institutions which are determined to conform to standards equivalent to licensing requirements in Title XIX of the federal Social Security Act (42 U.S.C. 301, et seq.), as amended, for nursing facilities. The MO HealthNet division may recognize through its payment methodology for nursing facilities those nursing facilities which serve a high volume of MO HealthNet patients. The MO HealthNet division when determining the amount of the benefit payments to be made on behalf of persons under the age of twenty-one in a nursing facility may consider nursing facilities furnishing care to persons under the age of twenty-one as a classification separate from other nursing facilities;

(5) Nursing home costs for participants receiving benefit payments under subdivision (4) of this subsection for those days, which shall not exceed twelve per any period of six consecutive months, during which the participant is on a temporary leave of absence from the hospital or nursing home, provided that no such participant shall be allowed a temporary leave of absence unless it is specifically provided for in his plan of care. As used in this subdivision, the term "temporary leave of absence" shall include all periods of time during which a participant is away from the hospital or nursing home overnight because he is visiting a friend or relative;

(6) Physicians' services, whether furnished in the office, home, hospital, nursing home, or elsewhere;

(7) Drugs and medicines when prescribed by a licensed physician, dentist, or podiatrist; except that no payment for drugs and medicines prescribed on and after January 1, 2006, by a licensed physician, dentist, or podiatrist may be made on behalf of any person who qualifies for prescription drug coverage under the provisions of P.L. 108-173;

(8) Emergency ambulance services and, effective January 1, 1990, medically necessary transportation to scheduled, physician-prescribed nonelective treatments;

(9) Early and periodic screening and diagnosis of individuals who are under the age of twenty-one to ascertain their physical or mental defects, and health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby. Such services shall be provided in accordance with the provisions of Section 6403 of P.L. 101-239 and federal regulations promulgated thereunder;

(10) Home health care services;

(11) Family planning as defined by federal rules and regulations; provided, however, that such family planning services shall not include abortions unless such abortions are certified in writing by a physician to the MO HealthNet agency that, in his professional judgment, the life of the mother would be endangered if the fetus were carried to term;

(12) Inpatient psychiatric hospital services for individuals under age twenty-one as defined in Title XIX of the federal Social Security Act (42 U.S.C. 1396d, et seq.);

(13) Outpatient surgical procedures, including presurgical diagnostic services performed in ambulatory surgical facilities which are licensed by the department of health and senior services of the state of Missouri; except, that such outpatient surgical services shall not include persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended, if exclusion of such persons is permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended;

(14) Personal care services which are medically oriented tasks having to do with a person's physical requirements, as opposed to housekeeping requirements, which enable a person to be treated by his physician on an outpatient rather than on an inpatient or residential basis in a hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be rendered by an individual not a member of the participant's family who is qualified to provide such services where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a licensed nurse. Persons eligible to receive personal care services shall be those persons who would otherwise require placement in a hospital, intermediate care facility, or skilled nursing facility. Benefits payable for personal care services shall not exceed for any one participant one hundred percent of the average statewide charge for care and treatment in an intermediate care facility for a comparable period of time. Such services, when delivered in a residential care facility or assisted living facility licensed under chapter 198 shall be authorized on a tier level based on the services the resident requires and the frequency of the services. A resident of such facility who qualifies for assistance under section 208.030 shall, at a minimum, if prescribed by a physician, qualify for the tier level with the fewest services. The rate paid to providers for each tier of service shall be set subject to appropriations. Subject to appropriations, each resident of such facility who qualifies for assistance under section 208.030 and meets the level of care required in this section shall, at a minimum, if prescribed by a physician, be authorized up to one hour of personal care services per day. Authorized units of personal care services shall not be reduced or tier level lowered unless an order approving such reduction or lowering is obtained from the resident's personal physician. Such authorized units of personal care services or tier level shall be transferred with such resident if her or she transfers to another such facility. Such provision shall terminate upon receipt of relevant waivers from the federal Department of Health and Human Services. If the Centers for Medicare and Medicaid Services determines that such provision does not comply with the state plan, this provision shall be null and void. The MO HealthNet division shall notify the revisor of statutes as to whether the relevant waivers are approved or a determination of noncompliance is made;

(15) Mental health services. The state plan for providing medical assistance under Title XIX of the Social Security Act, 42 U.S.C. 301, as amended, shall include the following mental health services when such services are provided by community mental health facilities operated

by the department of mental health or designated by the department of mental health as a community mental health facility or as an alcohol and drug abuse facility or as a child-serving agency within the comprehensive children's mental health service system established in section 630.097. The department of mental health shall establish by administrative rule the definition and criteria for designation as a community mental health facility and for designation as an alcohol and drug abuse facility. Such mental health services shall include:

(a) Outpatient mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(b) Clinic mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(c) Rehabilitative mental health and alcohol and drug abuse services including home and community-based preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health or alcohol and drug abuse professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management. As used in this section, mental health professional and alcohol and drug abuse professional shall be defined by the department of mental health pursuant to duly promulgated rules. With respect to services established by this subdivision, the department of social services, MO HealthNet division, shall enter into an agreement with the department of mental health. Matching funds for outpatient mental health services, clinic mental health services, and rehabilitation services for mental health and alcohol and drug abuse shall be certified by the department of mental health to the MO HealthNet division. The agreement shall establish a mechanism for the joint implementation of the provisions of this subdivision. In addition, the agreement shall establish a mechanism by which rates for services may be jointly developed;

(16) Such additional services as defined by the MO HealthNet division to be furnished under waivers of federal statutory requirements as provided for and authorized by the federal Social Security Act (42 U.S.C. 301, et seq.) subject to appropriation by the general assembly;

(17) Beginning July 1, 1990, the services of a certified pediatric or family nursing practitioner with a collaborative practice agreement to the extent that such services are provided in accordance with chapters 334 and 335, and regulations promulgated thereunder;

(18) Nursing home costs for participants receiving benefit payments under subdivision (4) of this subsection to reserve a bed for the participant in the nursing home during the time that the participant is absent due to admission to a hospital for services which cannot be performed on an outpatient basis, subject to the provisions of this subdivision:

(a) The provisions of this subdivision shall apply only if:

a. The occupancy rate of the nursing home is at or above ninety-seven percent of MO HealthNet certified licensed beds, according to the most recent quarterly census provided to the department of health and senior services which was taken prior to when the participant is admitted to the hospital; and

b. The patient is admitted to a hospital for a medical condition with an anticipated stay of three days or less;

(b) The payment to be made under this subdivision shall be provided for a maximum of three days per hospital stay;

(c) For each day that nursing home costs are paid on behalf of a participant under this subdivision during any period of six consecutive months such participant shall, during the same

period of six consecutive months, be ineligible for payment of nursing home costs of two otherwise available temporary leave of absence days provided under subdivision (5) of this subsection; and

(d) The provisions of this subdivision shall not apply unless the nursing home receives notice from the participant or the participant's responsible party that the participant intends to return to the nursing home following the hospital stay. If the nursing home receives such notification and all other provisions of this subsection have been satisfied, the nursing home shall provide notice to the participant or the participant's responsible party prior to release of the reserved bed;

(19) Prescribed medically necessary durable medical equipment. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(20) Hospice care. As used in this **[**subsection**] subdivision**, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(21) Prescribed medically necessary dental services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(22) Prescribed medically necessary optometric services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(23) **Blood clotting products-related services. For persons diagnosed with a bleeding disorder, as defined in section 338.400, reliant on blood clotting products, as defined in section 338.400, such services include:**

(a) Home delivery of blood clotting products and ancillary infusion equipment and supplies, including the emergency deliveries of the product when medically necessary;

(b) Medically necessary ancillary infusion equipment and supplies required to administer the blood clotting products; and

(c) Assessments conducted in the participant's home by a pharmacist, nurse, or local home health care agency trained in bleeding disorders when deemed necessary by the participant's treating physician;

(24) The MO HealthNet division shall, by January 1, 2008, and annually thereafter, report the status of MO HealthNet provider reimbursement rates as compared to one hundred percent of the Medicare reimbursement rates and compared to the average dental reimbursement rates paid by third-party payors licensed by the state. The MO HealthNet division shall, by July 1, 2008, provide to the general assembly a four-year plan to achieve parity with Medicare reimbursement rates and for third-party payor average dental reimbursement rates. Such plan shall be subject to appropriation and the division shall include in its annual budget request to the governor the necessary funding needed to complete the four-year plan developed under this subdivision.

2. Additional benefit payments for medical assistance shall be made on behalf of those eligible needy children, pregnant women and blind persons with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the division of medical services, unless otherwise hereinafter provided, for the following:

(1) Dental services;

(2) Services of podiatrists as defined in section 330.010;

(3) Optometric services as defined in section 336.010;

(4) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids, and wheelchairs;

(5) Hospice care. As used in this subsection, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(6) Comprehensive day rehabilitation services beginning early posttrauma as part of a coordinated system of care for individuals with disabling impairments. Rehabilitation services must be based on an individualized, goal-oriented, comprehensive and coordinated treatment plan developed, implemented, and monitored through an interdisciplinary assessment designed to restore an individual to optimal level of physical, cognitive, and behavioral function. The MO HealthNet division shall establish by administrative rule the definition and criteria for designation of a comprehensive day rehabilitation service facility, benefit limitations and payment mechanism. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this subdivision shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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.

3. The MO HealthNet division may require any participant receiving MO HealthNet benefits to pay part of the charge or cost until July 1, 2008, and an additional payment after July 1, 2008, as defined by rule duly promulgated by the MO HealthNet division, for all covered services except for those services covered under subdivisions (14) and (15) of subsection 1 of this section and sections 208.631 to 208.657 to the extent and in the manner authorized by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations thereunder. When substitution of a generic drug is permitted by the prescriber according to section 338.056, and a generic drug is substituted for a name-brand drug, the MO HealthNet division may not lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX of the federal Social Security Act. A provider of goods or services described under this section must collect from all participants the additional payment that may be required by the MO HealthNet division under authority granted herein, if the division exercises that authority, to remain eligible as a provider. Any payments made by participants under this section shall be in addition to and not in lieu of payments made by the state for goods or services described herein except the participant portion of the pharmacy professional dispensing fee shall be in addition

to and not in lieu of payments to pharmacists. A provider may collect the co-payment at the time a service is provided or at a later date. A provider shall not refuse to provide a service if a participant is unable to pay a required payment. If it is the routine business practice of a provider to terminate future services to an individual with an unclaimed debt, the provider may include uncollected co-payments under this practice. Providers who elect not to undertake the provision of services based on a history of bad debt shall give participants advance notice and a reasonable opportunity for payment. A provider, representative, employee, independent contractor, or agent of a pharmaceutical manufacturer shall not make co-payment for a participant. This subsection shall not apply to other qualified children, pregnant women, or blind persons. If the Centers for Medicare and Medicaid Services does not approve the Missouri MO HealthNet state plan amendment submitted by the department of social services that would allow a provider to deny future services to an individual with uncollected co-payments, the denial of services shall not be allowed. The department of social services shall inform providers regarding the acceptability of denying services as the result of unpaid co-payments.

4. The MO HealthNet division shall have the right to collect medication samples from participants in order to maintain program integrity.

5. Reimbursement for obstetrical and pediatric services under subdivision (6) of subsection 1 of this section shall be timely and sufficient to enlist enough health care providers so that care and services are available under the state plan for MO HealthNet benefits at least to the extent that such care and services are available to the general population in the geographic area, as required under subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations promulgated thereunder.

6. Beginning July 1, 1990, reimbursement for services rendered in federally funded health centers shall be in accordance with the provisions of subsection 6402(c) and Section 6404 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations promulgated thereunder.

7. Beginning July 1, 1990, the department of social services shall provide notification and referral of children below age five, and pregnant, breast-feeding, or postpartum women who are determined to be eligible for MO HealthNet benefits under section 208.151 to the special supplemental food programs for women, infants and children administered by the department of health and senior services. Such notification and referral shall conform to the requirements of Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

8. Providers of long-term care services shall be reimbursed for their costs in accordance with the provisions of Section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. 1396a, as amended, and regulations promulgated thereunder.

9. Reimbursement rates to long-term care providers with respect to a total change in ownership, at arm's length, for any facility previously licensed and certified for participation in the MO HealthNet program shall not increase payments in excess of the increase that would result from the application of Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a (a)(13)(C).

10. The MO HealthNet division, may enroll qualified residential care facilities and assisted living facilities, as defined in chapter 198, as MO HealthNet personal care providers.

11. Any income earned by individuals eligible for certified extended employment at a sheltered workshop under chapter 178 shall not be considered as income for purposes of determining eligibility under this section.

338.400. STANDARD OF CARE, DEFINITIONS, RULES. — 1. As used in this section, the following terms shall mean:

(1) "Ancillary infusion equipment and supplies", the equipment and supplies required to infuse a blood clotting therapy product into a human vein, including syringes, needles, sterile gauze, field pads, gloves, alcohol swabs, numbing creams, tourniquets,

medical tape, sharps or equivalent biohazard waste containers, and cold compression packs;

(2) "Assay", the amount of a particular constituent of a mixture or of the biological or pharmacological potency of a drug;

(3) "Bleeding disorder", a medical condition characterized by a deficiency or absence of one or more essential blood-clotting components in the human blood, including all forms of hemophilia, von Willebrand's disease, and other bleeding disorders that result in uncontrollable bleeding or abnormal blood clotting;

(4) "Blood clotting product", a medicine approved for distribution by the federal Food and Drug Administration that is used for the treatment and prevention of symptoms associated with bleeding disorders, including but not limited to recombinant Factor VII, recombinant-activated Factor VIIa, recombinant Factor VIII, plasma-derived Factor VIII, recombinant Factor IX, plasma-derived Factor IX, von Willebrand factor products, bypass products for patients with inhibitors, prothrombin complex concentrates; and activated prothrombin complex concentrates;

(5) "Home nursing services", specialized nursing care provided in the home setting to assist a patient in the reconstitution and administration of blood clotting products;

(6) "Home use", infusion or other use of a blood clotting product in a place other than a hemophilia treatment center, hospital, emergency room, physician's office, outpatient facility, or clinic;

(7) "Pharmacy", an entity engaged in practice of pharmacy as defined in section 338.010 that provides patients with blood clotting products and ancillary infusion equipment and supplies.

2. The Missouri state board of pharmacy shall promulgate rules governing the standard of care for pharmacies dispensing blood clotting therapies. Such rules shall include, when feasible, the standards established by the medical advisory committees of the patient groups representing the hemophilia and von Willebrand diseases, including but not limited to Recommendation 188 of the National Hemophilia Foundation's Medical and Scientific Advisory Council. Such rules shall include safeguards to ensure the pharmacy:

(1) Has the ability to obtain and fill a physician prescription as written of all brands of blood clotting products approved by the federal Food and Drug Administration in multiple assay ranges of low, medium, and high, as applicable, and vial sizes, including products manufactured from human plasma and those manufactured from recombinant technology techniques, provided manufacturer supply exists and payer authorization is obtained;

(2) Provides for the shipment of prescribed blood clotting products to the patient within two business days or less for established patients and three business days or less for new patients in nonemergency situations;

(3) Provides established patients with access to blood clotting products within twelve hours of notification by the physician of the patient's emergent need for blood clotting products;

(4) Provides all ancillary infusion equipment and supplies necessary for established patients for administration of blood clotting products;

(5) Has a pharmacist available twenty-four hours a day, seven days a week, every day of the year, either onsite or on call, to fill prescriptions for blood clotting products;

(6) Provides patients who have received blood clotting products with a designated contact telephone number for reporting problems with a delivery or product;

(7) Provides patients with notification of recalls and withdrawals of blood clotting products and ancillary infusion equipment within twenty-four hours of receipt of the notification; and

(8) Provides containers for the disposal of hazardous waste, and provide patients with instructions on the proper collection, removal, and disposal of hazardous waste under state and federal law.

3. Notwithstanding the provisions of subsection 2 of this section, pharmacies and pharmacists shall exercise that degree of skill and learning ordinarily exercised by members of their profession in the dispensing and distributing of blood clotting products.

Approved July 7, 2011

HB 555 [SS SCS 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.

Changes the laws regarding health care

AN ACT to repeal sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.101, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 301.143, 332.021, 334.120, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, RSMo, and to enact in lieu thereof eighty-six new sections relating to health care policies, with existing penalty provisions.

SECTION

A. Enacting clause.
8.241. Certain land in St. Louis City — restrictions.
162.946. Disability history and awareness instruction, school board may require — October designated disability history and awareness month — content and goals of instruction.
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189.010. Definitions — funds intended for poor patients — patients that are ineligible.
189.065. Special need areas, expenditures for.
192.005. Department of health and senior services created — division of health abolished — duties.
198.012. Provisions of sections 198.003 to 198.136 not to apply, when — exempt entities may be licensed.
205.968. Facilities authorized — persons to be served, limitations, definitions.
208.151. Medical assistance, persons eligible — rulemaking authority.
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208.955. Committee established, members, duties — issuance of findings — subcommittee designated, duties, members.
210.101. Children's services commission established, members, qualifications — meetings open to public, notice — rules — staff — ex officio members.
210.105. Missouri task force on prematurity and infant mortality created — members, officers, expenses — duties — report — expiration date.
210.496. Refusal to issue, suspension or revocation of licenses — grounds.
210.900. Definitions.
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211.202. Mentally disordered children, evaluation — disposition — review by court.
211.203. Developmentally disabled children, evaluation — disposition — review by court.
211.206. Duties of department of mental health — discharge by department — notice — jurisdiction of court.
211.207. Youth services division may request evaluation — procedure after evaluation — transfer of custody.

211.447. Petition to terminate parental rights filed, when — juvenile court may terminate parental rights, when — investigation to be made — grounds for termination.
301.143. Parking space for physically disabled may be established by political subdivisions and others, signs — violations — enforcement — penalty — handicap and handicapped prohibited on signage, when.
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552.015. Evidence of mental disease or defect, admissible, when.
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552.030. Mental disease or defect, not guilty plea based on, pretrial investigation — evidence — notice of defense — examination, reports confidential — statements not admissible, exception — presumption of competency — verdict contents — order of commitment to department.
552.040. Definitions — acquittal based on mental disease or defect, commitment to state hospital required — immediate conditional release — conditional or unconditional release, when — prior commitment, authority to revoke — applications for release, notice, burden of persuasion, criteria — hearings required, when — denial, reapplication — escape, notice — additional criteria for release.
630.003. Department created — state mental health commission — Missouri institute of mental health — transfers of powers and agencies.
630.005. Definitions.
630.010. Mental health commission — members, terms, qualifications, appointment, vacancies, compensation — organization, meetings.
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630.097. Comprehensive children's mental health service system to be developed — team established, members, duties — plan to be developed, content — evaluations to be conducted, when.
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630.705. Rules for standards for facilities and programs for persons affected by mental disorder, mental illness, or developmental disability — classification of facilities and programs — certain facilities and programs not to be licensed.
630.715. Licensing of residential facilities and day programs — fee — affidavit.
630.735. License required.
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632.110. Minors to be accepted for evaluation, when, by whom — may then be admitted to mental health facility — parent or guardian to consent — peace officer may transport to facility, when.
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632.120. Incompetents to be accepted by heads of facilities upon application — duration of admission for evaluation — consent may be authorized.

632.370. Transfer of patient by department — hearing on transfer of minor to adult ward — consent required — notice to be given — considerations — transfer to federal facility, notice, restrictions.
632.380. Provisions of chapter not to apply to certain persons.
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633.029. Definition to determine status of eligibility.
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633.120. Referral for admission to facility, when — admission or rejection, appeal — consent.
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633.135. Refusal of consent for placement or discharge, effect — procedure — department director to make final determination — appeal, procedure — burden of proof.
633.140. Return of absentee, procedure.
633.145. Transfer of patient between facilities by department — notice, consent.
633.150. Transfer of patient to mental health facility by head of developmental disability facility, how.
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633.160. Emergency admission may be made, duration, conditions.
633.180. Cash stipend, eligibility, amount, payment, use — application.
633.185. Family support loan program — interest rate — amount — application — family support loan program fund created.
633.190. Promulgation of rules.
633.210. Office of autism services established, duties — autism spectrum disorder defined.
633.300. Group homes and facilities subject to federal and state law — workers subject to training requirements — rulemaking authority.
633.303. Termination of workers on disqualification registry.
633.309. No transfer to homes or facilities with noncompliance notices.

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

SECTION A. ENACTING CLAUSE. — Sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.101, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 301.143, 332.021, 334.120, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, RSMo, are repealed and eighty-six new sections enacted in lieu thereof, to be known as sections 8.241, 162.946, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.101, 210.105, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 301.143, 332.021, 334.120, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, to read as follows:

8.241. CERTAIN LAND IN ST. LOUIS CITY — RESTRICTIONS. — 1. In addition to other provisions of law relating to title to and conveyance of real property by the state, and notwithstanding any provisions of chapter 8 to the contrary, if the state should ever purchase or

otherwise acquire ownership of real property located in a city not within a county as described in subsection 2 of this section, the state shall:

(1) Use, operate and maintain such property in full compliance with all applicable deed restrictions encumbering the property;

(2) Operate, maintain and use the property exclusively by the department of mental health for the purpose of housing no more than six employed and employable **[**mentally retarded or developmentally disabled**]** adults **with an intellectual disability or developmental disability**, and for no other purpose and by no other state agency, in whole or in part;

(3) Not sell or otherwise transfer ownership of the property, unless such property is sold or transferred solely for private, single-family residential use, which shall not be deemed to include, without limitation, any sale, transfer or conveyance of ownership of the property to any other state agency or department or program.

2. The property subject to the provisions of this section is more particularly described as follows: A parcel of real estate situated in Lot 20 in Block A of Compton Heights and in Block No. 1365 of the City of St. Louis, fronting 100 feet 0-3/8 inches on the North line of Longfellow Boulevard by a depth Northwardly on the east line of a 160 square foot and 159 feet 5 inches on the West line to the North line of said lot on which there is a frontage of 100 feet bounded East by Compton Avenue together with all improvements thereon, known as and numbered 3205 Longfellow Boulevard.

162.946. DISABILITY HISTORY AND AWARENESS INSTRUCTION, SCHOOL BOARD MAY REQUIRE — OCTOBER DESIGNATED DISABILITY HISTORY AND AWARENESS MONTH — CONTENT AND GOALS OF INSTRUCTION. — 1. Each district school board may require schools within the district to provide disability history and awareness instruction in all K-12 public schools during the month of October of each year. The month of October shall be designated "Disability History and Awareness Month".

2. During disability history and awareness month, students may be provided instruction to expand their knowledge, understanding, and awareness of individuals with disabilities, the history of disability, and the disability rights movement.

3. Disability history may include the events and time lines of the development and evolution of services to, and the civil rights of, individuals with disabilities. Disability history may also include the contributions of specific individuals with disabilities, including the contributions of acknowledged national leaders. The instruction may be integrated into the existing school curriculum in ways including, but not limited to, supplementing lesson plans, inviting classroom and assembly speakers with experience or expertise on disabilities, or providing other school-related activities. The instruction may be delivered by qualified school personnel or by knowledgeable guest speakers.

4. The goals of the disability history and awareness instruction include:

(1) Instilling in students sensitivity for fellow students with disabilities and encouraging educational cultures that nurture safe and inclusive environments for students with disabilities in which bullying is discouraged and respect and appreciation for students with disabilities is encouraged;

(2) An understanding that disability is a natural part of the human experience; we are all more alike than different; and regardless of disability, every citizen is afforded the same rights and responsibilities as that of any other;

(3) The creation of a more inclusive school community, where students with disabilities are included in every aspect of society, and every student is acknowledged for their unique gifts, talents, and contributions; and

(4) Reaffirmation of the local, state, and federal commitment to the full inclusion in society of, and the equal opportunity for, all individuals with disabilities.

The department of elementary and secondary education may identify and adopt preliminary guidelines for each district school board to use to develop its curriculum that incorporates these goals for the disability history and awareness instruction. In respect of local control, school districts are encouraged to exercise innovation that accomplishes the above-stated goals.

5. Institutions of higher education within the state are encouraged to conduct and promote activities on individual campuses that provide education, understanding, and awareness of individuals with disabilities.

178.900. DEFINITIONS. — For the purposes of sections 178.900 to **[**178.970**] 178.960** the following words mean:

(1) "Department", the department of elementary and secondary education;

(2) "**[**Handicapped**] Disabled** persons", a lower range educable or upper range trainable **[**mentally retarded**] developmentally disabled** or other **[**handicapped**] disabled** person sixteen years of age or over who has had school training and has a productive work capacity in a sheltered environment adapted to the abilities of **[**the mentally retarded**] persons with a developmental disability** but whose limited capabilities make him **or her** nonemployable in competitive business and industry and unsuited for vocational rehabilitation training;

(3) "Sheltered workshop", an occupation-oriented facility operated by a not-for-profit corporation, which, except for its staff, employs only **[**handicapped**]** persons **with disabilities** and has a minimum enrollment of at least fifteen employable **[**handicapped**]** persons **with disabilities**;

(4) "Staff", employees of a sheltered workshop engaged in management, work procurement, purchasing, supervision, sales, bookkeeping, and secretarial and clerical functions.

189.010. DEFINITIONS — FUNDS INTENDED FOR POOR PATIENTS — PATIENTS THAT ARE INELIGIBLE. — 1. As used in sections 189.010 to 189.085, unless the context clearly indicates otherwise, the following terms mean:

(1) "Approved provider", hospitals, clinics, laboratories, or other health personnel or facilities meeting standards to be established under the provisions of sections 189.010 to 189.085;

(2) "Department", the department of social services of the state of Missouri;

(3) "Director", the director of the department of social services of the state of Missouri or his duly authorized representative;

(4) "High risk patient", a woman of childbearing age who has any condition, or is at risk of developing some condition, medically or otherwise known to predispose to premature birth or to produce **[**mental retardation**] developmental disability**; or any infant or child who has any condition, or is at risk of developing some condition, medically known to predispose to **[**mental retardation**] developmental disability**;

(5) "Person", any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States or the state of Missouri;

(6) "Region", contiguous geographic areas of the state larger than single counties where health programs including special services for high risk patients can be developed efficiently and economically;

(7) "Service", any medical, surgical, corrective, diagnostic procedure, or hospitalization, and related activity to correct high risk conditions including all things reasonably incident and necessary to make the service available to the high risk patient;

(8) "Special services", diagnostic and treatment services which may not be efficiently or economically developed as a regular component of a hospital or clinic either because of high cost or infrequent demand but which may be required for high risk patients; such services would include, but not be limited to, intensive care units for the care of premature infants and intra-uterine fetal monitoring.

2. Expenditures for the operation of a hospital include, but are not limited to, amounts paid in connection with inpatient care in the hospital; ambulatory or emergency care provided by the hospital; ambulance services used in the transportation of patients to the hospital or among hospitals; administration of the hospital; maintenance and repairs of the hospital; depreciation of hospital capital assets; food, drugs, equipment and other supplies used by the hospital; and recruitment, selection and training of physician, nursing, allied health and other hospital personnel.

3. Funds approved under the provisions of sections 189.010 to 189.085 are not restricted for paying certain operating costs, or groups of costs, but are intended to supplement the appropriations from the local governmental agency for poor patients. Patients eligible for Medicare, Medicaid and other third party insurance are not eligible under this chapter.

189.065. SPECIAL NEED AREAS, EXPENDITURES FOR. — The department is authorized and directed to work with public and private institutions and agencies or persons to insure that special services will be available in all regions of the state, both rural and metropolitan. Whenever services or special services required for the purposes of sections 189.010 to 189.085 are not available, the department is authorized to use up to ten percent of the funds appropriated for the purposes of sections 189.010 to 189.085 to assist in establishing the facilities and professional staff required. For the purposes of implementing this section, the department and the advisory committees shall give special consideration to those areas of the state or population groups which demonstrate the highest incidence of **[**mental retardation**] developmental disability** or where accessibility to services or special services may be limited because of distance.

192.005. DEPARTMENT OF HEALTH AND SENIOR SERVICES CREATED — DIVISION OF HEALTH ABOLISHED — DUTIES. — There is hereby created and established as a department of state government the "Department of Health and Senior Services". The department of health and senior services shall supervise and manage all public health functions and programs. The department shall be governed by the provisions of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo, unless otherwise provided in sections 192.005 to 192.014. The division of health of the department of social services, chapter 191, this chapter, and others, including, but not limited to, such agencies and functions as the state health planning and development agency, the crippled children's service, chapter 201, the bureau and the program for the prevention of **[**mental retardation**] developmental disability**, the hospital subsidy program, chapter 189, the state board of health, section 191.400, the student loan program, sections 191.500 to 191.550, the family practice residency program, **[**sections 191.575 to 191.590,**]** the licensure and certification of hospitals, chapter 197, the Missouri chest hospital, sections 199.010 to 199.070, are hereby transferred to the department of health and senior services by a type I transfer, and the state cancer center and cancer commission, chapter 200, is hereby transferred to the department of health and senior services by a type III transfer as such transfers are defined in section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section. The division of health of the department of social services is abolished.

198.012. PROVISIONS OF SECTIONS 198.003 TO 198.136 NOT TO APPLY, WHEN — EXEMPT ENTITIES MAY BE LICENSED. — 1. The provisions of sections 198.003 to 198.136 shall not apply to any of the following entities:

(1) Any hospital, facility or other entity operated by the state or the United States;

(2) Any facility or other entity otherwise licensed by the state and operating exclusively under such license and within the limits of such license, unless the activities and services are or are held out as being activities or services normally provided by a licensed facility under sections

198.003 to 198.186, 198.200, 208.030, and 208.159, except hospitals licensed under the provisions of chapter 197;

(3) Any hospital licensed under the provisions of chapter 197, provided that the assisted living facility, intermediate care facility or skilled nursing facility are physically attached to the acute care hospital; and provided further that the department of health and senior services in promulgating rules, regulations and standards pursuant to section 197.080, with respect to such facilities, shall establish requirements and standards for such hospitals consistent with the intent of this chapter, and sections 198.067, 198.070, 198.090, 198.093 and 198.139 to 198.180 shall apply to every assisted living facility, intermediate care facility or skilled nursing facility regardless of physical proximity to any other health care facility;

(4) Any facility licensed pursuant to sections 630.705 to 630.760 which provides care, treatment, habilitation and rehabilitation exclusively to persons who have a primary diagnosis of mental disorder, mental illness, **[**mental retardation**]** or developmental disabilities, as defined in section 630.005;

(5) Any provider of care under a life care contract, except to any portion of the provider's premises on which the provider offers services provided by an intermediate care facility or skilled nursing facility as defined in section 198.006. For the purposes of this section, "provider of care under a life care contract" means any person contracting with any individual to furnish specified care and treatment to the individual for the life of the individual, with significant prepayment for such care and treatment.

2. Nothing in this section shall prohibit any of these entities from applying for a license under sections 198.003 to 198.136.

205.968. FACILITIES AUTHORIZED — PERSONS TO BE SERVED, LIMITATIONS, DEFINITIONS. — 1. As set forth in section 205.971, when a levy is approved by the voters, the governing body of any county or city not within a county of this state shall establish a board of directors. The board of directors shall be a legal entity empowered to establish and/or operate a sheltered workshop as defined in section 178.900, residence facilities, or related services, for the care or employment, or both, of **[**handicapped**]** persons **with a disability**. The facility may operate at one or more locations in the county or city not within a county. Once established, the board may, in its own name engage in and contract for any and all types of services, actions or endeavors, not contrary to the law, necessary to the successful and efficient prosecution and continuation of the business and purposes for which it is created, and may purchase, receive, lease or otherwise acquire, own, hold, improve, use, sell, convey, exchange, transfer, and otherwise dispose of real and personal property, or any interest therein, or other assets wherever situated and may incur liability and may borrow money at rates of interest up to the market rate published by the Missouri division of finance. The board shall be taken and considered as a "political subdivision" as the term is defined in section 70.600 for the purposes of sections 70.600 to 70.755.

2. Services may only be provided for those persons defined as **[**handicapped**]** persons **with a disability** in section 178.900 and those persons defined as **[**handicapped**]** persons **with a disability** in this section whether or not employed at the facility or in the community, and for persons who are **[**handicapped**] disabled** due to developmental disability. Persons having substantial functional limitations due to a mental illness as defined in section 630.005 shall not be eligible for services under the provisions of sections 205.968 to 205.972 except that those persons may participate in services under the provisions of sections 205.968 to 205.972. All persons otherwise eligible for facilities or services under this section shall be eligible regardless of their age; except that, individuals employed in sheltered workshops must be at least sixteen years of age. The board may, in its discretion, impose limitations with respect to individuals to be served and services to be provided. Such limitations shall be reasonable in the light of available funds, needs of the persons and community to be served as assessed by the board, and

the appropriateness and efficiency of combining services to persons with various types of **[**handicaps or**]** disabilities.

3. For the purposes of sections 205.968 to 205.972, the term

(1) "Developmental disability" shall mean either or both paragraph (a) or (b) of this subsection:

(a) A disability which is attributable to mental retardation, cerebral palsy, autism, epilepsy, a learning disability related to a brain dysfunction or a similar condition found by comprehensive evaluation to be closely related to such conditions, or to require habilitation similar to that required for mentally retarded persons; and

a. Which originated before age eighteen; and

b. Which can be expected to continue indefinitely;

(b) A developmental disability as defined in section 630.005;

(2) "**[**Handicapped**]** Person **with a disability**" shall mean a person who is lower range educable or upper range trainable mentally retarded or a person who has a developmental disability.

208.151. MEDICAL ASSISTANCE, PERSONS ELIGIBLE — RULEMAKING AUTHORITY. — 1. Medical assistance on behalf of needy persons shall be known as "MO HealthNet". For the purpose of paying MO HealthNet benefits and to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301, et seq.) as amended, the following needy persons shall be eligible to receive MO HealthNet benefits to the extent and in the manner hereinafter provided:

(1) All participants receiving state supplemental payments for the aged, blind and disabled;

(2) All participants receiving aid to families with dependent children benefits, including all persons under nineteen years of age who would be classified as dependent children except for the requirements of subdivision (1) of subsection 1 of section 208.040. Participants eligible under this subdivision who are participating in drug court, as defined in section 478.001, shall have their eligibility automatically extended sixty days from the time their dependent child is removed from the custody of the participant, subject to approval of the Centers for Medicare and Medicaid Services;

(3) All participants receiving blind pension benefits;

(4) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits under the eligibility standards in effect December 31, 1973, or less restrictive standards as established by rule of the family support division, who are sixty-five years of age or over and are patients in state institutions for mental diseases or tuberculosis;

(5) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children except for the requirements of subdivision (2) of subsection 1 of section 208.040, and who are residing in an intermediate care facility, or receiving active treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as amended;

(6) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children benefits except for the requirement of deprivation of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(7) All persons eligible to receive nursing care benefits;

(8) All participants receiving family foster home or nonprofit private child-care institution care, subsidized adoption benefits and parental school care wherein state funds are used as partial or full payment for such care;

(9) All persons who were participants receiving old age assistance benefits, aid to the permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to meet the eligibility requirements, except income, for these assistance categories, but who are no longer receiving such benefits because of the implementation of Title XVI of the federal Social Security Act, as amended;

(10) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child in the home;

(11) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child who is deprived of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(12) Pregnant women or infants under one year of age, or both, whose family income does not exceed an income eligibility standard equal to one hundred eighty-five percent of the federal poverty level as established and amended by the federal Department of Health and Human Services, or its successor agency;

(13) Children who have attained one year of age but have not attained six years of age who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989). The family support division shall use an income eligibility standard equal to one hundred thirty-three percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency;

(14) Children who have attained six years of age but have not attained nineteen years of age. For children who have attained six years of age but have not attained nineteen years of age, the family support division shall use an income assessment methodology which provides for eligibility when family income is equal to or less than equal to one hundred percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency. As necessary to provide MO HealthNet coverage under this subdivision, the department of social services may revise the state MO HealthNet plan to extend coverage under 42 U.S.C. 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42 U.S.C. 1396a;

(15) The family support division shall not establish a resource eligibility standard in assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The MO HealthNet division shall define the amount and scope of benefits which are available to individuals eligible under each of the subdivisions (12), (13), and (14) of this subsection, in accordance with the requirements of federal law and regulations promulgated thereunder;

(16) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal care shall be made available to pregnant women during a period of presumptive eligibility pursuant to 42 U.S.C. Section 1396r-1, as amended;

(17) A child born to a woman eligible for and receiving MO HealthNet benefits under this section on the date of the child's birth shall be deemed to have applied for MO HealthNet benefits and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of time determined in accordance with applicable federal and state law and regulations so long as the child is a member of the woman's household and either the woman remains eligible for such assistance or for children born on or after January 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon notification of such child's birth, the family support division shall assign a MO HealthNet eligibility identification number to the child so that claims may be submitted and paid under such child's identification number;

(18) Pregnant women and children eligible for MO HealthNet benefits pursuant to subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for MO HealthNet benefits be required to apply for aid to families with dependent children. The family support division shall utilize an application for eligibility for such persons which eliminates information requirements other than those necessary to apply for MO HealthNet benefits. The division shall provide such application forms to applicants whose preliminary income information indicates that they are ineligible for aid to families with dependent children. Applicants for MO HealthNet benefits under subdivision (12), (13) or (14) **of this subsection** shall be informed of the aid to families with dependent children program and that they are

entitled to apply for such benefits. Any forms utilized by the family support division for assessing eligibility under this chapter shall be as simple as practicable;

(19) Subject to appropriations necessary to recruit and train such staff, the family support division shall provide one or more full-time, permanent eligibility specialists to process applications for MO HealthNet benefits at the site of a health care provider, if the health care provider requests the placement of such eligibility specialists and reimburses the division for the expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and equipment, of such eligibility specialists. The division may provide a health care provider with a part-time or temporary eligibility specialist at the site of a health care provider if the health care provider requests the placement of such an eligibility specialist and reimburses the division for the expenses, including but not limited to the salary, benefits, travel, training, telephone, supplies, and equipment, of such an eligibility specialist. The division may seek to employ such eligibility specialists who are otherwise qualified for such positions and who are current or former welfare participants. The division may consider training such current or former welfare participants as eligibility specialists for this program;

(20) Pregnant women who are eligible for, have applied for and have received MO HealthNet benefits under subdivision (2), (10), (11) or (12) of this subsection shall continue to be considered eligible for all pregnancy-related and postpartum MO HealthNet benefits provided under section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy;

(21) Case management services for pregnant women and young children at risk shall be a covered service. To the greatest extent possible, and in compliance with federal law and regulations, the department of health and senior services shall provide case management services to pregnant women by contract or agreement with the department of social services through local health departments organized under the provisions of chapter 192 or chapter 205 or a city health department operated under a city charter or a combined city-county health department or other department of health and senior services designees. To the greatest extent possible the department of social services and the department of health and senior services shall mutually coordinate all services for pregnant women and children with the crippled children's program, the prevention of **[**mental retardation**] intellectual disability and developmental disability** program and the prenatal care program administered by the department of health and senior services. The department of social services shall by regulation establish the methodology for reimbursement for case management services provided by the department of health and senior services. For purposes of this section, the term "case management" shall mean those activities of local public health personnel to identify prospective MO HealthNet-eligible high-risk mothers and enroll them in the state's MO HealthNet program, refer them to local physicians or local health departments who provide prenatal care under physician protocol and who participate in the MO HealthNet program for prenatal care and to ensure that said high-risk mothers receive support from all private and public programs for which they are eligible and shall not include involvement in any MO HealthNet prepaid, case-managed programs;

(22) By January 1, 1988, the department of social services and the department of health and senior services shall study all significant aspects of presumptive eligibility for pregnant women and submit a joint report on the subject, including projected costs and the time needed for implementation, to the general assembly. The department of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation promulgated pursuant to chapter 207;

(23) All participants who would be eligible for aid to families with dependent children benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

(24) (a) All persons who would be determined to be eligible for old age assistance benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as

authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized by annual appropriation;

(b) All persons who would be determined to be eligible for aid to the blind benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005, except that less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), shall be used to raise the income limit to one hundred percent of the federal poverty level;

(c) All persons who would be determined to be eligible for permanent and total disability benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. 1396a(f); or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized by annual appropriations. Eligibility standards for permanent and total disability benefits shall not be limited by age;

(25) Persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of presumptive eligibility in accordance with 42 U.S.C. 1396r-1;

(26) Persons who are independent foster care adolescents, as defined in 42 U.S.C. Section 1396d, or who are within reasonable categories of such adolescents who are under twenty-one years of age as specified by the state, are eligible for coverage under 42 U.S.C. Section 1396a (a)(10)(A)(ii)(XVII) without regard to income or assets.

2. Rules and regulations to implement this section shall be promulgated in accordance with section 431.064 and chapter 536. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of the last six months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for MO HealthNet benefits for four calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of the six months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of employment or income from employment of the caretaker relative, shall remain eligible for MO HealthNet benefits for six calendar months following the month of such ineligibility as long as such family includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical assistance during the entire six-month period described in this section and which meets reporting requirements and income tests established by the division and continues to include a child as provided in 42 U.S.C. 1396r-6 shall receive MO HealthNet benefits without fee for an additional six months. The MO HealthNet division may provide by rule and as authorized by annual appropriation the scope of MO HealthNet coverage to be granted to such families.

4. When any individual has been determined to be eligible for MO HealthNet benefits, such medical assistance will be made available to him or her for care and services furnished in or after the third month before the month in which he made application for such assistance if such individual was, or upon application would have been, eligible for such assistance at the time

such care and services were furnished; provided, further, that such medical expenses remain unpaid.

5. The department of social services may apply to the federal Department of Health and Human Services for a MO HealthNet waiver amendment to the Section 1115 demonstration waiver or for any additional MO HealthNet waivers necessary not to exceed one million dollars in additional costs to the state, unless subject to appropriation or directed by statute, but in no event shall such waiver applications or amendments seek to waive the services of a rural health clinic or a federally qualified health center as defined in 42 U.S.C. 1396d(l)(1) and (2) or the payment requirements for such clinics and centers as provided in 42 U.S.C. 1396a(a)(15) and 1396a(bb) unless such waiver application is approved by the oversight committee created in section 208.955. A request for such a waiver so submitted shall only become effective by executive order not sooner than ninety days after the final adjournment of the session of the general assembly to which it is submitted, unless it is disapproved within sixty days of its submission to a regular session by a senate or house resolution adopted by a majority vote of the respective elected members thereof, unless the request for such a waiver is made subject to appropriation or directed by statute.

6. Notwithstanding any other provision of law to the contrary, in any given fiscal year, any persons made eligible for MO HealthNet benefits under subdivisions (1) to (22) of subsection 1 of this section shall only be eligible if annual appropriations are made for such eligibility. This subsection shall not apply to classes of individuals listed in 42 U.S.C. Section 1396a(a)(10)(A)(i).

208.275. COORDINATING COUNCIL ON SPECIAL TRANSPORTATION, CREATION — MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, EXPENSES — STAFF — POWERS — DUTIES. — 1. As used in this section, unless the context otherwise indicates, the following terms mean:

(1) "Elderly", any person who is sixty years of age or older;

(2) "**[**Handicapped**] Person with a disability**", any person having a physical or mental condition, either permanent or temporary, which would substantially impair ability to operate or utilize available transportation.

2. There is hereby created the "Coordinating Council on Special Transportation" within the Missouri department of transportation. The members of the council shall be: two members of the senate appointed by the president pro tem, who shall be from different political parties; two members of the house of representatives appointed by the speaker, who shall be from different political parties; the assistant for transportation of the Missouri department of transportation, or his designee; the assistant commissioner of the department of elementary and secondary education, responsible for special transportation, or his designee; the director of the division of aging of the department of social services, or his designee; the deputy director for **[**mental retardation**]** developmental disabilities and the deputy director for administration of the department of mental health, or their designees; the executive secretary of the governor's committee on the employment of the **[**handicapped**] persons with a disability**; and seven consumer representatives appointed by the governor by and with the advice and consent of the senate, four of the consumer representatives shall represent the elderly and three shall represent **[**the handicapped**] persons with a disability**. Two of such three members representing **[**handicapped**]** persons **with a disability** shall represent those with physical **[**handicaps**] disabilities**. Consumer representatives appointed by the governor shall serve for terms of three years or until a successor is appointed and qualified. Of the members first selected, two shall be selected for a term of three years, two shall be selected for a term of two years, and three shall be selected for a term of one year. In the event of the death or resignation of any member, his successor shall be appointed to serve for the unexpired period of the term for which such member had been appointed.

3. State agency personnel shall serve on the council without additional appropriations or compensation. The consumer representatives shall serve without compensation except for receiving reimbursement for the reasonable and necessary expenses incurred in the performance of their duties on the council from funds appropriated to the department of transportation. Legislative members shall be reimbursed by their respective appointing bodies out of the contingency fund for such body for necessary expenses incurred in the performance of their duties.

4. Staff for the council shall be provided by the Missouri department of transportation. The department shall designate a special transportation coordinator who shall have had experience in the area of special transportation, as well as such other staff as needed to enable the council to perform its duties.

5. The council shall meet at least quarterly each year and shall elect from its members a chairman and a vice chairman.

6. The coordinating council on special transportation shall:

(1) Recommend and periodically review policies for the coordinated planning and delivery of special transportation when appropriate;

(2) Identify special transportation needs and recommend agency funding allocations and resources to meet these needs when appropriate;

(3) Identify legal and administrative barriers to effective service delivery;

(4) Review agency methods for distributing funds within the state and make recommendations when appropriate;

(5) Review agency funding criteria and make recommendations when appropriate;

(6) Review area transportation plans and make recommendations for plan format and content;

(7) Establish measurable objectives for the delivery of transportation services;

(8) Review annual performance data and make recommendations for improved service delivery, operating procedures or funding when appropriate;

(9) Review local disputes and conflicts on special transportation and recommend solutions.

208.955. COMMITTEE ESTABLISHED, MEMBERS, DUTIES — ISSUANCE OF FINDINGS — SUBCOMMITTEE DESIGNATED, DUTIES, MEMBERS. — 1. There is hereby established in the department of social services the "MO HealthNet Oversight Committee", which shall be appointed by January 1, 2008, and shall consist of **[**eighteen**]** **nineteen** members as follows:

(1) Two members of the house of representatives, one from each party, appointed by the speaker of the house of representatives and the minority floor leader of the house of representatives;

(2) Two members of the Senate, one from each party, appointed by the president pro tem of the senate and the minority floor leader of the senate;

(3) One consumer representative **who has no financial interest in the health care industry and who has not been an employee of the state within the last five years**;

(4) Two primary care physicians, licensed under chapter 334, **[**recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state,**]** who care for participants, not from the same geographic area**, chosen in the same manner as described in section 334.120**;

(5) Two physicians, licensed under chapter 334, who care for participants but who are not primary care physicians and are not from the same geographic area, **[**recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state**]** **chosen in the same manner as described in section 334.120**;

(6) One representative of the state hospital association;

(7) **[**One**]** **Two** nonphysician health care **[**professional**]** **professionals, the first nonphysician health care professional licensed under chapter 335 and the second nonphysician health care professional licensed under chapter 337,** who **[**cares**]** **care** for

participants**[**, recommended by the director of the department of insurance, financial institutions and professional registration**]**;

(8) One dentist, who cares for participants**[**. The dentist shall be recommended by any Missouri organization or association that represents a significant number of dentists licensed in this state**] , chosen in the same manner as described in section 332.021**;

(9) Two patient advocates **who have no financial interest in the health care industry and who have not been employees of the state within the last five years**;

(10) One public member **who has no financial interest in the health care industry and who has not been an employee of the state within the last five years**; and

(11) The directors of the department of social services, the department of mental health, the department of health and senior services, or the respective directors' designees, who shall serve as ex-officio members of the committee.

2. The members of the oversight committee, other than the members from the general assembly and ex-officio members, shall be appointed by the governor with the advice and consent of the senate. A chair of the oversight committee shall be selected by the members of the oversight committee. Of the members first appointed to the oversight committee by the governor, eight members shall serve a term of two years, seven members shall serve a term of one year, and thereafter, members shall serve a term of two years. Members shall continue to serve until their successor is duly appointed and qualified. Any vacancy on the oversight committee shall be filled in the same manner as the original appointment. Members shall serve on the oversight committee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of social services for that purpose. The department of social services shall provide technical, actuarial, and administrative support services as required by the oversight committee. The oversight committee shall:

(1) Meet on at least four occasions annually, including at least four before the end of December of the first year the committee is established. Meetings can be held by telephone or video conference at the discretion of the committee;

(2) Review the participant and provider satisfaction reports and the reports of health outcomes, social and behavioral outcomes, use of evidence-based medicine and best practices as required of the health improvement plans and the department of social services under section 208.950;

(3) Review the results from other states of the relative success or failure of various models of health delivery attempted;

(4) Review the results of studies comparing health plans conducted under section 208.950;

(5) Review the data from health risk assessments collected and reported under section 208.950;

(6) Review the results of the public process input collected under section 208.950;

(7) Advise and approve proposed design and implementation proposals for new health improvement plans submitted by the department, as well as make recommendations and suggest modifications when necessary;

(8) Determine how best to analyze and present the data reviewed under section 208.950 so that the health outcomes, participant and provider satisfaction, results from other states, health plan comparisons, financial impact of the various health improvement plans and models of care, study of provider access, and results of public input can be used by consumers, health care providers, and public officials;

(9) Present significant findings of the analysis required in subdivision (8) of this subsection in a report to the general assembly and governor, at least annually, beginning January 1, 2009;

(10) Review the budget forecast issued by the legislative budget office, and the report required under subsection (22) of subsection 1 of section 208.151, and after study:

(a) Consider ways to maximize the federal drawdown of funds;

(b) Study the demographics of the state and of the MO HealthNet population, and how those demographics are changing;

(c) Consider what steps are needed to prepare for the increasing numbers of participants as a result of the baby boom following World War II;

(11) Conduct a study to determine whether an office of inspector general shall be established. Such office would be responsible for oversight, auditing, investigation, and performance review to provide increased accountability, integrity, and oversight of state medical assistance programs, to assist in improving agency and program operations, and to deter and identify fraud, abuse, and illegal acts. The committee shall review the experience of all states that have created a similar office to determine the impact of creating a similar office in this state; and

(12) Perform other tasks as necessary, including but not limited to making recommendations to the division concerning the promulgation of rules and emergency rules so that quality of care, provider availability, and participant satisfaction can be assured.

3. By July 1, 2011, the oversight committee shall issue findings to the general assembly on the success and failure of health improvement plans and shall recommend whether or not any health improvement plans should be discontinued.

4. The oversight committee shall designate a subcommittee devoted to advising the department on the development of a comprehensive entry point system for long-term care that shall:

(1) Offer Missourians an array of choices including community-based, in-home, residential and institutional services;

(2) Provide information and assistance about the array of long-term care services to Missourians;

(3) Create a delivery system that is easy to understand and access through multiple points, which shall include but shall not be limited to providers of services;

(4) Create a delivery system that is efficient, reduces duplication, and streamlines access to multiple funding sources and programs;

(5) Strengthen the long-term care quality assurance and quality improvement system;

(6) Establish a long-term care system that seeks to achieve timely access to and payment for care, foster quality and excellence in service delivery, and promote innovative and cost-effective strategies; and

(7) Study one-stop shopping for seniors as established in section 208.612.

5. The subcommittee shall include the following members:

(1) The lieutenant governor or his or her designee, who shall serve as the subcommittee chair;

(2) One member from a Missouri area agency on aging, designated by the governor;

(3) One member representing the in-home care profession, designated by the governor;

(4) One member representing residential care facilities, predominantly serving MO HealthNet participants, designated by the governor;

(5) One member representing assisted living facilities or continuing care retirement communities, predominantly serving MO HealthNet participants, designated by the governor;

(6) One member representing skilled nursing facilities, predominantly serving MO HealthNet participants, designated by the governor;

(7) One member from the office of the state ombudsman for long-term care facility residents, designated by the governor;

(8) One member representing Missouri centers for independent living, designated by the governor;

(9) One consumer representative with expertise in services for seniors or **[**the disabled**]** **persons with a disability**, designated by the governor;

(10) One member with expertise in Alzheimer's disease or related dementia;

(11) One member from a county developmental disability board, designated by the governor;

(12) One member representing the hospice care profession, designated by the governor;

(13) One member representing the home health care profession, designated by the governor;

(14) One member representing the adult day care profession, designated by the governor;

(15) One member gerontologist, designated by the governor;

(16) Two members representing the aged, blind, and disabled population, not of the same geographic area or demographic group designated by the governor;

(17) The directors of the departments of social services, mental health, and health and senior services, or their designees; and

(18) One member of the house of representatives and one member of the senate serving on the oversight committee, designated by the oversight committee chair.

Members shall serve on the subcommittee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of health and senior services for that purpose. The department of health and senior services shall provide technical and administrative support services as required by the committee.

6. By October 1, 2008, the comprehensive entry point system subcommittee shall submit its report to the governor and general assembly containing recommendations for the implementation of the comprehensive entry point system, offering suggested legislative or administrative proposals deemed necessary by the subcommittee to minimize conflict of interests for successful implementation of the system. Such report shall contain, but not be limited to, recommendations for implementation of the following consistent with the provisions of section 208.950:

(1) A complete statewide universal information and assistance system that is integrated into the web-based electronic patient health record that can be accessible by phone, in-person, via MO HealthNet providers and via the Internet that connects consumers to services or providers and is used to establish consumers' needs for services. Through the system, consumers shall be able to independently choose from a full range of home, community-based, and facility-based health and social services as well as access appropriate services to meet individual needs and preferences from the provider of the consumer's choice;

(2) A mechanism for developing a plan of service or care via the web-based electronic patient health record to authorize appropriate services;

(3) A preadmission screening mechanism for MO HealthNet participants for nursing home care;

(4) A case management or care coordination system to be available as needed; and

(5) An electronic system or database to coordinate and monitor the services provided which are integrated into the web-based electronic patient health record.

7. Starting July 1, 2009, and for three years thereafter, the subcommittee shall provide to the governor, lieutenant governor and the general assembly a yearly report that provides an update on progress made by the subcommittee toward implementing the comprehensive entry point system.

8. The provisions of section 23.253 shall not apply to sections 208.950 to 208.955.

210.101. CHILDREN'S SERVICES COMMISSION ESTABLISHED, MEMBERS, QUALIFICATIONS — MEETINGS OPEN TO PUBLIC, NOTICE — RULES — STAFF — EX OFFICIO MEMBERS. — 1. There is hereby established the "Missouri Children's Services Commission", which shall be composed of the following members:

(1) The director or **[**deputy director of the department of labor and industrial relations and the director or deputy director of each state agency, department, division, or other entity which provides services or programs for children, including, but not limited to, the department of mental health, the department of elementary and secondary education, the department of social services, the department of public safety and the department of health and senior services**] the director's designee of the following departments: labor and industrial relations, corrections,**

elementary and secondary education, higher education, health and senior services, mental health, public safety, and social services;

(2) One judge of a **family or** juvenile court, who shall be appointed by the chief justice of the supreme court;

(3) **[**One judge of a family court, who shall be appointed by the chief justice of the supreme court;

(4) Four**] Two** members, **[**two**] one** from each political party, of the house of representatives, who shall be appointed by the speaker of the house of representatives;

[(5) Four**] (4) Two** members, **[**two**] one** from each political party, of the senate, who shall be appointed by the president pro tempore of the senate.

All members shall serve for as long as they hold the position which made them eligible for appointment to the Missouri children's services commission under this subsection. All members shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

2. All meetings of the Missouri children's services commission shall be open to the public and shall, for all purposes, be deemed open public meetings under the provisions of sections 610.010 to 610.030. The Missouri children's services commission shall meet no less than once every two months**[**, and shall hold its first meeting no later than sixty days after September 28, 1983**]**. Notice of all meetings of the commission shall be given to the general assembly in the same manner required for notifying the general public of meetings of the general assembly.

3. The Missouri children's services commission may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers.

4. The commission shall elect from amongst its members a chairman, vice chairman, a secretary-reporter, and such other officers as it deems necessary.

5. The services of the personnel of any agency from which the director or deputy director is a member of the commission shall be made available to the commission at the discretion of such director or deputy director. All meetings of the commission shall be held in the state of Missouri.

6. The officers of the commission may hire an executive director. Funding for the executive director may be provided from the Missouri children's services commission fund or other sources provided by law.

7. The commission, by majority vote, may invite individuals representing local and federal agencies or private organizations and the general public to serve as ex officio members of the commission. Such individuals shall not have a vote in commission business and shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

210.105. MISSOURI TASK FORCE ON PREMATURITY AND INFANT MORTALITY CREATED — MEMBERS, OFFICERS, EXPENSES — DUTIES — REPORT — EXPIRATION DATE. — 1. There is hereby created the "Missouri Task Force on Prematurity and Infant Mortality" within the children's services commission to consist of the following eighteen members:

(1) The following six members of the general assembly:

(a) Three members of the house of representatives, with two members to be appointed by the speaker of the house and one member to be appointed by the minority leader of the house;

(b) Three members of the senate, with two members to be appointed by the president pro tem of the senate and one member to be appointed by the minority leader of the senate;

(2) The director of the department of health and senior services, or the director's designee;

(3) The director of the department of social services, or the director's designee;

(4) The director of the department of insurance, financial institutions and professional registration, or the director's designee;

(5) One member representing a not-for-profit organization specializing in prematurity and infant mortality;

(6) Two members who shall be either a physician or nurse practitioner specializing in obstetrics and gynecology, family medicine, pediatrics or perinatology;

(7) Two consumer representatives who are parents of individuals born prematurely, including one parent of an individual under the age of eighteen;

(8) Two members representing insurance providers in the state;

(9) One small business advocate; and

(10) One member of the small business regulatory fairness board.

Members of the task force, other than the legislative members and directors of state agencies, shall be appointed by the governor with the advice and consent of the senate by September 15, 2011.

2. A majority of a quorum from among the task force membership shall elect a chair and vice-chair of the task force.

3. A majority vote of a quorum of the task force is required for any action.

4. The chairperson of the children's services commission shall convene the initial meeting of the task force by no later than October 15, 2011. The task force shall meet at least quarterly; except that the task force shall meet at least twice prior to the end of 2011. Meetings may be held by telephone or video conference at the discretion of the chair.

5. Members shall serve on the commission without compensation, but may, subject to appropriation, be reimbursed for actual and necessary expenses incurred in the performance of their official duties as members of the task force.

6. The goal of the task force is to seek evidence-based and cost-effective approaches to reduce Missouri's preterm birth and infant mortality rates.

7. The task force shall:

(1) Submit findings to the general assembly;

(2) Review appropriate and relevant evidence-based research regarding the causes and effects of prematurity and birth defects in Missouri;

(3) Examine existing public and private entities currently associated with the prevention and treatment of prematurity and infant mortality in Missouri;

(4) Develop cost-effective strategies to reduce prematurity and infant mortality; and

(5) Issue findings and propose to the appropriate public and private organizations goals, objectives, strategies, and tactics designed to reduce prematurity and infant mortality in Missouri, including recommendations on public policy for consideration during the next appropriate session of the general assembly.

8. On or before December 31, 2013, the task force shall submit a report on their findings to the governor and general assembly. The report shall include any dissenting opinions in addition to any majority opinions.

9. The task force shall expire on January 1, 2015, or upon submission of a report under subsection 8 of this section, whichever is earlier.

210.496. REFUSAL TO ISSUE, SUSPENSION OR REVOCATION OF LICENSES — GROUNDS. — The division may refuse to issue either a license or a provisional license to an applicant, or may suspend or revoke the license or provisional license of a licensee, who:

(1) Fails consistently to comply with the applicable provisions of sections 208.400 to 208.535 and the applicable rules promulgated thereunder;

(2) Violates any of the provisions of its license;

(3) Violates state laws or rules relating to the protection of children;

(4) Furnishes or makes any misleading or false statements or reports to the division;

(5) Refuses to submit to the division any reports or refuses to make available to the division any records required by the division in making an investigation;

(6) Fails or refuses to admit authorized representatives of the division at any reasonable time for the purpose of investigation;

(7) Fails or refuses to submit to an investigation by the division;

(8) Fails to provide, maintain, equip, and keep in safe and sanitary condition the premises established or used for the care of children being served, as required by law, rule, or ordinance applicable to the location of the foster home or residential care facility; or

(9) Fails to provide financial resources adequate for the satisfactory care of and services to children being served and the upkeep of the premises.

Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of an applicant. The disability or disease of an applicant shall not constitute a basis for a determination that the applicant is unfit or not suitable to be a foster parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child or an inability to perform the duties of a foster parent.

210.900. DEFINITIONS. — 1. Sections 210.900 to 210.936 shall be known and may be cited as the "Family Care Safety Act".

2. As used in sections 210.900 to 210.936, the following terms shall mean:

(1) "Child-care provider", any licensed or license-exempt child-care home, any licensed or license-exempt child-care center, child-placing agency, residential care facility for children, group home, foster family group home, foster family home, employment agency that refers a child-care worker to parents or guardians as defined in section 289.005. The term "child-care provider" does not include summer camps or voluntary associations designed primarily for recreational or educational purposes;

(2) "Child-care worker", any person who is employed by a child-care provider, or receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for child-care services;

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

(4) "Elder-care provider", any operator licensed pursuant to chapter 198 or any person, corporation, or association who provides in-home services under contract with the division of aging, or any employer of nurses or nursing assistants of home health agencies licensed pursuant to sections 197.400 to 197.477, or any nursing assistants employed by a hospice pursuant to sections 197.250 to 197.280, or that portion of a hospital for which subdivision (3) of subsection 1 of section 198.012 applies;

(5) "Elder-care worker", any person who is employed by an elder-care provider, or who receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for elder-care services;

(6) "Employer", any child-care provider, elder-care provider, or personal-care provider as defined in this section;

(7) "Mental health provider", any **[**mental retardation**] developmental disability** facility or group home as defined in section 633.005;

(8) "Mental health worker", any person employed by a mental health provider to provide personal care services and supports;

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

(10) "Personal-care attendant" or "personal-care worker", a person who performs routine services or supports necessary for a person with a physical or mental disability to enter and maintain employment or to live independently;

(11) "Personal-care provider", any person, corporation, or association who provides personal-care services or supports under contract with the department of mental health, the

division of aging, the department of health and senior services or the department of elementary and secondary education;

(12) "Related child care", child care provided only to a child or children by such child's or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence separate from the child or children;

(13) "Related elder care", care provided only to an elder by an adult child, a spouse, a grandchild, a great-grandchild or a sibling of such elder.

211.031. JUVENILE COURT TO HAVE EXCLUSIVE JURISDICTION, WHEN — EXCEPTIONS — HOME SCHOOLING, ATTENDANCE VIOLATIONS, HOW TREATED. — 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, and except that the juvenile

court shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall have concurrent jurisdiction with the circuit court on any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570 with the consent of the receiving court;

(5) Upon motion of any child or person seventeen years of age or his or her parent, the court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court Rules;

(6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

4. When an investigation by a juvenile officer pursuant to this section reveals that the only basis for action involves an alleged violation of section 167.031 involving a child who alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child to verify that the child is being home schooled and not in violation of section 167.031 before making a report of such a violation. Any report of a violation of section 167.031 made by a juvenile officer regarding a child who is being home schooled shall be made to the prosecuting attorney of the county where the child legally resides.

5. The disability or disease of a parent shall not constitute a basis for a determination that a child is a child in need of care or for the removal of custody of a child from the parent without a specific showing that there is a causal relation between the disability or disease and harm to the child.

211.202. MENTALLY DISORDERED CHILDREN, EVALUATION — DISPOSITION — REVIEW BY COURT. — 1. If a child under the jurisdiction of the juvenile court appears to be mentally disordered, other than **[**mentally retarded or**] intellectually disabled or** developmentally disabled, the court, on its own motion or on the motion or petition of any interested party, may order the department of mental health to evaluate the child.

2. A mental health facility designated by the department of mental health shall perform within twenty days an evaluation of the child, on an outpatient basis if practicable, for the purpose of determining whether inpatient admission is appropriate because the following criteria are met:

(1) The child has a mental disorder other than mental retardation or developmental disability, as all these terms are defined in chapter 630;

(2) The child requires inpatient care and treatment for the protection of himself or others;

(3) A mental health facility offers a program suitable for the child's needs;

(4) A mental health facility is the least restrictive environment as the term "least restrictive environment" is defined in chapter 630.

3. If the facility determines, as a result of the evaluation, that it is appropriate to admit the child as an inpatient, the head of the mental health facility, or his designee, shall recommend the child for admission, subject to the availability of suitable accommodations, and send the juvenile court notice of the recommendation and a copy of the evaluation. Should the department evaluation recommend inpatient care, the child, his parent, guardian or counsel shall have the right to request an independent evaluation of the child. Within twenty days of the receipt of the notice and evaluation by the facility, or within twenty days of the receipt of the notice and evaluation from the independent examiner, the court may order, pursuant to a hearing, the child committed to the custody of the department of mental health for inpatient care and treatment, or may otherwise dispose of the matter; except, that no child shall be committed to a mental health facility under this section for other than care and treatment.

4. If the facility determines, as a result of the evaluation, that inpatient admission is not appropriate, the head of the mental health facility, or his designee, shall not recommend the child for admission as an inpatient. The head of the facility, or his designee, shall send to the court a notice that inpatient admission is not appropriate, along with a copy of the evaluation, within twenty days of completing the evaluation. If the child was evaluated on an inpatient basis, the juvenile court shall transfer the child from the department of mental health within twenty days of receipt of the notice and evaluation or set the matter for hearing within twenty days, giving notice of the hearing to the director of the facility as well as all others required by law.

5. If at any time the facility determines that it is no longer appropriate to provide inpatient care and treatment for the child committed by the juvenile court, but that such child appears to qualify for placement under section 630.610, the head of the facility shall refer such child for placement. Subject to the availability of an appropriate placement, the department of mental health shall place any child who qualifies for placement under section 630.610. If no appropriate placement is available, the department of mental health shall discharge the child or make such other arrangements as it may deem appropriate and consistent with the child's welfare and safety. Notice of the placement or discharge shall be sent to the juvenile court which first ordered the child's detention.

6. The committing juvenile court shall conduct an annual review of the child's need for continued placement in the mental health facility.

211.203. DEVELOPMENTALLY DISABLED CHILDREN, EVALUATION — DISPOSITION — REVIEW BY COURT. — 1. If a child under the jurisdiction of the juvenile court appears to be mentally retarded or developmentally disabled, as these terms are defined in chapter 630, the court, on its own motion or on the motion or petition of any interested party, may order the department of mental health to evaluate the child.

2. A regional center designated by the department of mental health shall perform within twenty days a comprehensive evaluation, as defined in chapter 633, on an outpatient basis if practicable, for the purpose of determining the appropriateness of a referral to a **[**mental retardation**] developmental disability** facility operated or funded by the department of mental health. If it is determined by the regional center, as a result of the evaluation, to be appropriate to refer such child to a department **[**mental retardation**] developmental disability** facility under section 633.120 or a private **[**mental retardation**] developmental disability** facility under section 630.610, the regional center shall refer the evaluation to the appropriate **[**mental retardation**] developmental disability** facility.

3. If, as a result of reviewing the evaluation, the head of the **[**mental retardation**] developmental disability** facility, or his designee, determines that it is appropriate to admit such child as a resident, the head of the **[**mental retardation**] developmental disability** facility, or his **or her** designee, shall recommend the child for admission, subject to availability of suitable accommodations. The head of the regional center, or his designee, shall send the juvenile court notice of the recommendation for admission by the **[**mental retardation**] developmental disability** facility and a copy of the evaluation. Should the department evaluation recommend residential care and habilitation, the child, his parent, guardian or counsel shall have the right to request an independent evaluation of the child. Within twenty days of receipt of the notice and evaluation from the facility, or within twenty days of the receipt of the notice and evaluation from the independent examiner, the court may order, pursuant to a hearing, the child committed to the custody of the department of mental health for residential care and habilitation, or may otherwise dispose of the matter; except, that no child shall be committed to the department of mental health for other than residential care and habilitation. If the department proposes placement at, or transferring the child to, a department facility other than that designated in the order of the juvenile court, the department shall conduct a due process hearing within six days of such placement or transfer during which the head of the initiating facility shall have the burden to show that the placement or transfer is appropriate for the medical needs of the child. The head of the facility shall notify the court ordering detention or commitment and the child's last known attorney of record of such placement or transfer.

4. If, as a result of the evaluation, the regional center determines that it is not appropriate to admit such child as a resident in a **[**mental retardation**] developmental disability** facility, the regional center shall send a notice to the court that it is inappropriate to admit such child, along with a copy of the evaluation. If the child was evaluated on a residential basis, the juvenile court shall transfer the child from the department within five days of receiving the notice and evaluation or set the matter for hearing within twenty days, giving notice of the hearing to the director of the facility as well as all others required by law.

5. If at any time the **[**mental retardation**] developmental disability** facility determines that it is no longer appropriate to provide residential habilitation for the child committed by the juvenile court, but that such child appears to qualify for placement under section 630.610, the head of the facility shall refer such child for placement. Subject to the availability of an appropriate placement, the department shall place any child who qualifies for placement under section 630.610. If no appropriate placement is available, the department shall discharge the child or make such other arrangements as it may deem appropriate and consistent with the child's welfare and safety. Notice of the placement or discharge shall be sent to the juvenile court which first ordered the child's detention.

6. The committing court shall conduct an annual review of the child's need for continued placement at the **[**mental retardation**] developmental disability** facility.

211.206. DUTIES OF DEPARTMENT OF MENTAL HEALTH — DISCHARGE BY DEPARTMENT — NOTICE — JURISDICTION OF COURT. — 1. For each child committed to the department of mental health by the juvenile court, the director of the department of mental health, or his designee, shall prepare an individualized treatment or habilitation plan, as defined in

chapter 630, within thirty days of the admission for treatment or habilitation. The status of each child shall be reviewed at least once every thirty days. Copies of all individualized treatment plans, habilitation plans, and periodic reviews shall be sent to the committing juvenile court.

2. The department of mental health shall discharge a child committed to it by the juvenile court pursuant to sections 211.202 and 211.203 if the head of a mental health facility or **[**mental retardation**] developmental disability** facility, or his designee, determines, in an evaluation or a periodic review, that any of the following conditions are true:

(1) A child committed to a mental health facility no longer has a mental disorder other than **[**mental retardation**] intellectual disability** or developmental disability;

(2) A child committed to a **[**mental retardation**] developmental disability** facility is not **[**mentally retarded**] intellectually disabled** or developmentally disabled;

(3) The condition of the child is no longer such that, for the protection of the child or others, the child requires inpatient hospitalization or residential habilitation;

(4) The mental health facility or **[**mental retardation**] developmental disability** facility does not offer a program which best meets the child's needs;

(5) The mental health facility or **[**mental retardation**] developmental disability** facility does not provide the least restrictive environment, as defined in section 630.005, which is consistent with the child's welfare and safety.

3. If the committing court specifically retained jurisdiction of the child by the terms of its order committing the child to the department of mental health, notice of the discharge, accompanied by a diagnosis and recommendations for placement of the child, shall be forwarded to the court at least twenty days before such discharge date. Unless within twenty days of receipt of notice of discharge the juvenile court orders the child to be brought before it for appropriate proceedings, jurisdiction of that court over the child shall terminate at the end of such twenty days.

211.207. YOUTH SERVICES DIVISION MAY REQUEST EVALUATION — PROCEDURE AFTER EVALUATION — TRANSFER OF CUSTODY. — 1. If a child is committed to the division of youth services and subsequently appears to be mentally disordered, as defined in chapter 630, the division shall refer the child to the department of mental health for evaluation. The evaluation shall be performed within twenty days by a mental health facility or regional center operated by the department of mental health and, if practicable, on an outpatient basis, for the purpose of determining whether inpatient care at a mental health facility or residential habilitation in a **[**mental retardation**] developmental disability** facility is appropriate because the child meets the criteria specified in subsection 2 of section 211.202 or in section 633.120, respectively.

2. If, as a result of the evaluation, the director of the department of mental health, or his designee, determines that the child is not mentally disordered so as to require inpatient care and treatment in a mental health facility or residential habilitation in a **[**mental retardation**] developmental disability** facility, the director, or his designee, shall so notify the director of the division of youth services. If the child was evaluated on an inpatient or residential basis, the child shall be returned to the division of youth services.

3. If the director of the department of mental health, or his designee, determines that the child requires inpatient care and treatment at a mental health facility operated by the department of mental health or residential habilitation in a **[**mental retardation**] developmental disability** facility operated by the department of mental health, the director, or his designee, shall notify the director of the division of youth services that admission is appropriate. The director of the division may transfer the physical custody of the child to the department of mental health for admission to a department of mental health facility and the department of mental health shall accept the transfer subject to the availability of suitable accommodations.

4. The director of the department of mental health, or his designee, shall cause an individualized treatment or habilitation plan to be prepared by the mental health facility or **[**mental retardation**] developmental disability** facility for each child. The mental health facility

or **[**mental retardation**]** **developmental disability** facility shall review the status of the child at least once every thirty days. If, as a result of any such review, it is determined that inpatient care and treatment at a mental health facility or residential habilitation in a **[**mental retardation**]** **developmental disability** facility is no longer appropriate for the child because the child does not meet the criteria specified in subsection 2 of section 211.202 or in section 633.120, respectively, the director of the department of mental health, or his designee, shall so notify the director of the division of youth services and shall return the child to the custody of the division.

5. If a child for any reason ceases to come under the jurisdiction of the division of youth services, he may be retained in a mental health facility or **[**mental retardation**]** **developmental disability** facility only as otherwise provided by law.

211.447. PETITION TO TERMINATE PARENTAL RIGHTS FILED, WHEN — JUVENILE COURT MAY TERMINATE PARENTAL RIGHTS, WHEN — INVESTIGATION TO BE MADE — GROUNDS FOR TERMINATION. — 1. Any information that could justify the filing of a petition to terminate parental rights may be referred to the juvenile officer by any person. The juvenile officer shall make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should be filed, such officer shall so notify the informant in writing within thirty days of the referral. Such notification shall include the reasons that the petition will not be filed. Thereupon, the informant may bring the matter directly to the attention of the judge of the juvenile court by presenting the information in writing, and if it appears to the judge that the information could justify the filing of a petition, the judge may order the juvenile officer to take further action, including making a further preliminary inquiry or filing a petition.

2. Except as provided for in subsection 4 of this section, a petition to terminate the parental rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, when:

(1) Information available to the juvenile officer or the division establishes that the child has been in foster care for at least fifteen of the most recent twenty-two months; or

(2) A court of competent jurisdiction has determined the child to be an abandoned infant. For purposes of this subdivision, an "infant" means any child one year of age or under at the time of filing of the petition. The court may find that an infant has been abandoned if:

(a) The parent has left the child under circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so; or

(3) A court of competent jurisdiction has determined that the parent has:

(a) Committed murder of another child of the parent; or

(b) Committed voluntary manslaughter of another child of the parent; or

(c) Aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; or

(d) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent.

3. A termination of parental rights petition shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, within sixty days of the judicial determinations required in subsection 2 of this section, except as provided in subsection 4 of this section. Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate a petition for termination of parental rights which is filed outside of sixty days.

4. If grounds exist for termination of parental rights pursuant to subsection 2 of this section, the juvenile officer or the division may, but is not required to, file a petition to terminate the parental rights of the child's parent or parents if:

(1) The child is being cared for by a relative; or

(2) There exists a compelling reason for determining that filing such a petition would not be in the best interest of the child, as documented in the permanency plan which shall be made available for court review; or

(3) The family of the child has not been provided such services as provided for in section 211.183.

5. The juvenile officer or the division may file a petition to terminate the parental rights of the child's parent when it appears that one or more of the following grounds for termination exist:

(1) The child has been abandoned. For purposes of this subdivision a "child" means any child over one year of age at the time of filing of the petition. The court shall find that the child has been abandoned if, for a period of six months or longer:

(a) The parent has left the child under such circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so;

(2) The child has been abused or neglected. In determining whether to terminate parental rights pursuant to this subdivision, the court shall consider and make findings on the following conditions or acts of the parent:

(a) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(b) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control of the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control;

(c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child or any child in the family by the parent, including an act of incest, or by another under circumstances that indicate that the parent knew or should have known that such acts were being committed toward the child or any child in the family; or

(d) Repeated or continuous failure by the parent, although physically or financially able, to provide the child with adequate food, clothing, shelter, or education as defined by law, or other care and control necessary for the child's physical, mental, or emotional health and development**.**

Nothing in this subdivision shall be construed to permit discrimination on the basis of disability or disease;

(3) The child has been under the jurisdiction of the juvenile court for a period of one year, and the court finds that the conditions which led to the assumption of jurisdiction still persist, or conditions of a potentially harmful nature continue to exist, that there is little likelihood that those conditions will be remedied at an early date so that the child can be returned to the parent in the near future, or the continuation of the parent-child relationship greatly diminishes the child's prospects for early integration into a stable and permanent home. In determining whether to terminate parental rights under this subdivision, the court shall consider and make findings on the following:

(a) The terms of a social service plan entered into by the parent and the division and the extent to which the parties have made progress in complying with those terms;

(b) The success or failure of the efforts of the juvenile officer, the division or other agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to provide a proper home for the child;

(c) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(d) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control over the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control; or

(4) The parent has been found guilty or pled guilty to a felony violation of chapter 566 when the child or any child in the family was a victim, or a violation of section 568.020 when the child or any child in the family was a victim. As used in this subdivision, a "child" means any person who was under eighteen years of age at the time of the crime and who resided with such parent or was related within the third degree of consanguinity or affinity to such parent; or

(5) The child was conceived and born as a result of an act of forcible rape. When the biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such a plea or conviction shall be conclusive evidence supporting the termination of the biological father's parental rights; or

(6) The parent is unfit to be a party to the parent and child relationship because of a consistent pattern of committing a specific abuse, including but not limited to, abuses as defined in section 455.010, child abuse or drug abuse before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that within a three-year period immediately prior to the termination adjudication, the parent's parental rights to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of this section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar laws of other states.

6. The juvenile court may terminate the rights of a parent to a child upon a petition filed by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court finds that the termination is in the best interest of the child and when it appears by clear, cogent and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

7. When considering whether to terminate the parent-child relationship pursuant to subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section, the court shall evaluate and make findings on the following factors, when appropriate and applicable to the case:

(1) The emotional ties to the birth parent;

(2) The extent to which the parent has maintained regular visitation or other contact with the child;

(3) The extent of payment by the parent for the cost of care and maintenance of the child when financially able to do so including the time that the child is in the custody of the division or other child-placing agency;

(4) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time;

(5) The parent's disinterest in or lack of commitment to the child;

(6) The conviction of the parent of a felony offense that the court finds is of such a nature that the child will be deprived of a stable home for a period of years; provided, however, that incarceration in and of itself shall not be grounds for termination of parental rights;

(7) Deliberate acts of the parent or acts of another of which the parent knew or should have known that subjects the child to a substantial risk of physical or mental harm.

8. The court may attach little or no weight to infrequent visitations, communications, or contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child relationship may serve as an inducement for the parent's rehabilitation.

9. In actions for adoption pursuant to chapter 453, the court may hear and determine the issues raised in a petition for adoption containing a prayer for termination of parental rights filed with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

10. The disability or disease of a parent shall not constitute a basis for a determination that a child is a child in need of care, for the removal of custody of a child from the parent, or for the termination of parent rights without a specific showing that there is a causal relation between the disability or disease and harm to the child.

301.143. PARKING SPACE FOR PHYSICALLY DISABLED MAY BE ESTABLISHED BY POLITICAL SUBDIVISIONS AND OTHERS, SIGNS — VIOLATIONS — ENFORCEMENT — PENALTY — HANDICAP AND HANDICAPPED PROHIBITED ON SIGNAGE, WHEN. — 1. As used in this section, the term "vehicle" shall have the same meaning given it in section 301.010, and the term "physically disabled" shall have the same meaning given it in section 301.142.

2. Political subdivisions of the state may by ordinance or resolution designate parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142. Owners of private property used for public parking shall also designate parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142. Whenever a political subdivision or owner of private property so designates a parking space, the space shall be indicated by a sign upon which shall be inscribed the international symbol of accessibility and **[**shall**] may** also include any appropriate wording **such as "Accessible Parking"** to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card. The sign described in this subsection shall also state, or an additional sign shall be posted below or adjacent to the sign stating, the following: "$50 to $300 fine.". **Beginning August 28, 2011, when any political subdivision or owner of private property restripes a parking lot or constructs a new parking lot, one in every four accessible spaces, but not less than one, shall be served by an access aisle a minimum of ninety-six inches wide and shall be designated "lift van accessible only" with signs that meet the requirements of the federal Americans with Disabilities Act, as amended, and any rules or regulations established pursuant thereto.**

3. Any political subdivision, by ordinance or resolution, and any person or corporation in lawful possession of a public off-street parking facility or any other owner of private property may designate reserved parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142 as close as possible to the nearest accessible entrance. Such designation shall be made by posting immediately adjacent to, and visible from, each space, a sign upon which is inscribed the international symbol of accessibility, and may also include any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card.

4. The local police or sheriff's department may cause the removal of any vehicle not displaying a distinguishing license plate or card on which is inscribed the international symbol of accessibility and the word "disabled" issued pursuant to section 301.142 or a "disabled veteran" license plate issued pursuant to section 301.071 or a distinguishing license plate or card issued by any other state from a space designated for physically disabled persons if there is posted immediately adjacent to, and readily visible from, such space a sign on which is inscribed the international symbol of accessibility and may include any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card. Any person who parks in a space reserved for physically disabled persons and is not displaying distinguishing license plates or a card is guilty of an infraction and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars. Any vehicle which has been removed and which is not properly claimed within thirty days thereafter shall be considered to be an abandoned vehicle.

5. Spaces designated for use by vehicles displaying the distinguishing "disabled" license plate issued pursuant to section 301.142 or 301.071 shall meet the requirements of the federal Americans with Disabilities Act, as amended, and any rules or regulations established pursuant thereto. Notwithstanding the other provisions of this section, on-street parking spaces designated by political subdivisions in residential areas for the exclusive use of vehicles displaying a distinguishing license plate or card issued pursuant to section 301.071 or 301.142 shall meet the requirements of the federal Americans with Disabilities Act pursuant to this subsection and any such space shall have clearly and visibly painted upon it the international symbol of accessibility and any curb adjacent to the space shall be clearly and visibly painted blue.

6. Any person who, without authorization, uses a distinguishing license plate or card issued pursuant to section 301.071 or 301.142 to park in a parking space reserved under authority of this section shall be guilty of a class B misdemeanor.

7. Law enforcement officials may enter upon private property open to public use to enforce the provisions of this section and section 301.142, including private property designated by the owner of such property for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142.

8. Nonconforming signs or spaces otherwise required pursuant to this section which are in use prior to August 28, **[**1997**] 2011**, shall not be in violation of this section during the useful life of such signs or spaces. Under no circumstances shall the useful life of the nonconforming signs or spaces be extended by means other than those means used to maintain any sign or space on the owner's property which is not used for vehicles displaying a disabled license plate.

9. Beginning August 28, 2011, all new signs erected under this section shall not contain the words "Handicap Parking" or "Handicapped Parking".

332.021. DENTAL BOARD, MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, VACANCY, HOW FILLED — BOARD MAY SUE AND BE SUED. — 1. "The Missouri Dental Board" shall consist of seven members including five registered and currently licensed dentists, one registered and currently licensed dental hygienist with voting authority as limited in subsection 4 of this section, and one voting public member. Any currently valid certificate of registration or currently valid specialist's certificate issued by the Missouri dental board as constituted pursuant to prior law shall be a valid certificate of registration or a valid specialist's certificate, as the case may be, upon October 13, 1969, and such certificates shall be valid so long as the holders thereof comply with the provisions of this chapter.

2. Any person other than the public member appointed to the board as hereinafter provided shall be a dentist or a dental hygienist who is registered and currently licensed in Missouri, is a United States citizen, has been a resident of this state for one year immediately preceding his or her appointment, has practiced dentistry or dental hygiene for at least five consecutive years immediately preceding his or her appointment, shall have graduated from an accredited dental school or dental hygiene school, and at the time of his or her appointment or during his or her tenure on the board has or shall have no connection with or interest in, directly or indirectly, any dental college, dental hygiene school, university, school, department, or other institution of learning wherein dentistry or dental hygiene is taught, or with any dental laboratory or other business enterprise directly related to the practice of dentistry or dental hygiene.

3. The governor shall appoint members to the board by and with the advice and consent of the senate when a vacancy thereon occurs either by the expiration of a term or otherwise; provided, however, that any board member shall serve until his or her successor is appointed and has qualified. Each appointee, except where appointed to fill an unexpired term, shall be appointed for a term of five years. The president of the Missouri Dental Association in office at the time shall, at least ninety days prior to the expiration of the term of a board member other than the dental hygienist or public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five dentists 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 Dental Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

4. 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 list of dentists submitted to the governor shall include the names submitted to the director of the division of professional registration by the president of the Missouri Dental Association. This list shall be a public record available for inspection and copying under chapter 610.** Lists of dental hygienists submitted to the governor may include names submitted to the director of the division of professional registration by the president of the Missouri Dental Hygienists' Association. The duties of the dental hygienist member shall not include participation in the determination for or the issuance of a certificate of registration or a license to practice as a dentist. 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.

5. The board shall have a seal which shall be in circular form and which shall impress the word "SEAL" in the center and around said word the words "Missouri Dental Board". The seal shall be affixed to such instruments as hereinafter provided and to any other instruments as the board shall direct.

6. The board may sue and be sued as the Missouri dental board, and its members need not be named as parties. Members of the board shall not be personally liable, either jointly or severally, for any act or acts committed in the performance of their official duties as board members; nor shall any board member be personally liable for any court costs which accrue in any action by or against 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 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 list of medical physicians or osteopathic physicians submitted to the governor shall include the names submitted to the director of the division of professional registration by the president of the Missouri State Medical Association or the Missouri Association of Osteopathic Physicians and Surgeons, respectively. This list shall be a public record available for inspection and copying under chapter 610.** 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.

453.070. INVESTIGATIONS PRECONDITION FOR ADOPTION — CONTENTS OF INVESTIGATION REPORT — HOW CONDUCTED — ASSESSMENTS OF ADOPTIVE PARENTS, CONTENTS — WAIVING OF INVESTIGATION, WHEN — FEES — PREFERENCE TO FOSTER PARENTS, WHEN. — 1. Except as provided in subsection 5 of this section, no decree for the adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners in such adoption as ordered by the juvenile court having jurisdiction, until a full investigation, which includes an assessment of the adoptive parents, an appropriate postplacement assessment and a summary of written reports as provided for in section 453.026, and any other pertinent information relevant to whether the child is suitable for adoption by the petitioner and whether the petitioner is suitable as a parent for the child, has been made. The report shall also include a statement to the effect that the child has been considered as a potential subsidy recipient.

2. Such investigation shall be made, as directed by the court having jurisdiction, either by the division of family services of the state department of social services, a juvenile court officer, a licensed child-placement agency, a social worker licensed pursuant to chapter 337, or other suitable person appointed by the court. The results of such investigation shall be embodied in a written report that shall be submitted to the court within ninety days of the request for the investigation.

3. The department of social services, division of family services, shall develop rules and regulations regarding the content of the assessment of the petitioner or petitioners. The content of the assessment shall include but not be limited to, a report on the condition of the petitioner's home and information on the petitioner's education, financial, marital, medical and psychological status and criminal background check. If an assessment is conducted after August 28, 1997, but prior to the promulgation of rules and regulations by the department concerning the contents of such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating

an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to the court prior to the scheduled hearing of the adoptive petition.

5. In cases where the adoption or custody involves a child under eighteen years of age that is the natural child of one of the petitioners and where all of the parents required by this chapter to give consent to the adoption or transfer of custody have given such consent, the juvenile court may waive the investigation and report, except the criminal background check, and enter the decree for the adoption or order the transfer of custody without such investigation and report.

6. In the case of an investigation and report made by the division of family services by order of the court, the court may order the payment of a reasonable fee by the petitioner to cover the costs of the investigation and report.

7. Any adult person or persons over the age of eighteen, who, as foster parent or parents, have cared for a foster child continuously for a period of nine months or more and bonding has occurred as evidenced by the positive emotional and physical interaction between the foster parent and child, may apply to such authorized agency for the placement of such child with them for the purpose of adoption if the child is eligible for adoption. The agency and court shall give preference and first consideration for adoptive placements to foster parents. However, the final determination of the propriety of the adoption of such foster child shall be within the sole discretion of the court.

8. (1) Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of a prospective adoptive parent.

(2) The disability or disease of a prospective adoptive parent shall not constitute a basis for a determination that the petitioner is unfit or not suitable to be an adoptive parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child.

475.121. ADMISSION TO MENTAL HEALTH OR DEVELOPMENTAL DISABILITY FACILITIES. — 1. Pursuant to an application alleging that the admission of the ward to a particular mental health or **[**mental retardation**] developmental disability** facility is appropriate and in the best interest of the ward, the court may authorize the guardian or limited guardian to admit the ward to such facility. Such application shall be accompanied by a physician's statement setting forth the factual basis for the need for continued admission including a statement of the ward's current diagnosis, plan of care, treatment or habilitation and the probable duration of the admission.

2. If the court finds that the application establishes the need for inpatient care, habilitation or treatment of the ward in a mental health or **[**mental retardation**] developmental disability** facility without the adduction of further evidence, it shall issue an order authorizing the guardian to admit the ward to such facility in accordance with the provisions of section 632.120 or section 633.120.

3. The court may, in its discretion, appoint an attorney to represent the ward. The attorney shall meet with the ward and may request a hearing on the application. If a hearing is requested, the court shall set the application for hearing. If there is no request for hearing, the court may rule on the application without a hearing. The attorney for the ward shall be allowed a reasonable fee for his services rendered to be assessed as costs under section 475.085.

4. Proceedings under this section may be combined with adjudication proceedings under section 475.075.

475.355. TEMPORARY EMERGENCY DETENTION. — 1. If, upon the filing of a petition for the adjudication of incapacity or disability it appears that the respondent, by reason of a mental disorder or **[**mental retardation**] intellectual disability or developmental disability**, presents a likelihood of serious physical harm to himself or others, he may be detained in accordance with the provisions of chapter 632 if suffering from a mental disorder, or chapter 633 if **[**mentally

retarded**] the person has an intellectual or developmental disability**, pending a hearing on the petition for adjudication.

2. As used in this section, the terms "mental disorder" and "mental retardation" shall be as defined in chapter 630 and the term "likelihood of serious physical harm to himself or others" shall be as defined in chapter 632.

3. The procedure for obtaining an order of temporary emergency detention shall be as prescribed by chapter 632, relating to prehearing detention of mentally disordered persons.

476.537. JUDGE LEAVING NO SURVIVING SPOUSE OR SURVIVING SPOUSE DIES — DEPENDENTS TO RECEIVE BENEFITS. — In the event that any judge leaving no surviving spouse or any surviving spouse receiving benefits under section 476.535 as a beneficiary dies leaving dependents who are unable to care for or support themselves because of any **[**mental retardation**] intellectual disability or developmental disability**, disease or disability, or any physical **[**handicap or**]** disability, the benefits that would be received by a surviving spouse on the judge's death if there were a surviving spouse or the benefits received by such surviving spouse, as the case may be, shall be paid to such surviving dependent for the remainder of such dependent's life. If the judge or such surviving spouse leaves more than one dependent who would be eligible for benefits under this section, then each eligible dependent shall receive a pro rata share of the amount that would be paid to a surviving spouse under section 476.535.

552.015. EVIDENCE OF MENTAL DISEASE OR DEFECT, ADMISSIBLE, WHEN. — 1. Evidence that the defendant did or did not suffer mental disease or defect shall not be admissible in a criminal prosecution except as provided in this section.

2. Evidence that the defendant did or did not suffer from a mental disease or defect shall be admissible in a criminal proceeding:

(1) To determine whether the defendant lacks capacity to understand the proceedings against him or to assist in his own defense as provided in section 552.020;

(2) To determine whether the defendant is criminally responsible as provided in section 552.030;

(3) To determine whether a person committed to the director of the department of mental health pursuant to this chapter shall be released as provided in section 552.040;

(4) To determine if a person in the custody of any correctional institution needs care in a mental hospital as provided in section 552.050;

(5) To determine whether a person condemned to death shall be executed as provided in sections 552.060 and 552.070;

(6) To determine whether or not the defendant, if found guilty, should be sentenced to death as provided in chapter 558;

(7) To determine the appropriate disposition of a defendant, if guilty, as provided in sections 557.011 and 557.031;

(8) To prove that the defendant did or did not have a state of mind which is an element of the offense;

(9) To determine if the defendant, if found not guilty by reason of mental disease or defect, should be immediately conditionally released by the court under the provisions of section 552.040 to the community or committed to a mental health or **[**mental retardation**] developmental disability** facility. This question shall not be asked regarding defendants charged with any of the dangerous felonies as defined in section 556.061, or with those crimes set forth in subsection 11 of section 552.040, or the attempts thereof.

552.020. LACK OF MENTAL CAPACITY BAR TO TRIAL OR CONVICTION — PSYCHIATRIC EXAMINATION, WHEN, REPORT OF — PLEA OF NOT GUILTY BY REASON OF MENTAL DISEASE, SUPPORTING PRETRIAL EVALUATION, CONDITIONS OF RELEASE — COMMITMENT TO HOSPITAL, WHEN — STATEMENTS OF ACCUSED INADMISSIBLE, WHEN — JURY MAY BE

IMPANELED TO DETERMINE MENTAL FITNESS. — 1. No person who as a result of mental disease or defect lacks capacity to understand the proceedings against him or to assist in his own defense shall be tried, convicted or sentenced for the commission of an offense so long as the incapacity endures.

2. Whenever any judge has reasonable cause to believe that the accused lacks mental fitness to proceed, he shall, upon his own motion or upon motion filed by the state or by or on behalf of the accused, by order of record, appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded or mentally ill individuals**] persons with an intellectual disability or developmental disability or mental illness**, who are neither employees nor contractors of the department of mental health for purposes of performing the examination in question, to examine the accused; or shall direct the director to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded or mentally ill individuals**] persons with an intellectual disability, developmental disability, or mental illness**. The order shall direct that a written report or reports of such examination be filed with the clerk of the court. No private physician, psychiatrist, or psychologist shall be appointed by the court unless he has consented to act. The examinations ordered shall be made at such time and place and under such conditions as the court deems proper; except that, if the order directs the director of the department to have the accused examined, the director, or his designee, shall determine the time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses and may require the provision of police reports to the department for use in evaluations. The department shall establish standards and provide training for those individuals performing examinations pursuant to this section and section 552.030. No individual who is employed by or contracts with the department shall be designated to perform an examination pursuant to this chapter unless the individual meets the qualifications so established by the department. Any examination performed pursuant to this subsection shall be completed and filed with the court within sixty days of the order unless the court for good cause orders otherwise. Nothing in this section or section 552.030 shall be construed to permit psychologists to engage in any activity not authorized by chapter 337. One pretrial evaluation shall be provided at no charge to the defendant by the department. All costs of subsequent evaluations shall be assessed to the party requesting the evaluation.

3. A report of the examination made under this section shall include:

(1) Detailed findings;

(2) An opinion as to whether the accused has a mental disease or defect;

(3) An opinion based upon a reasonable degree of medical or psychological certainty as to whether the accused, as a result of a mental disease or defect, lacks capacity to understand the proceedings against him or to assist in his own defense;

(4) A recommendation as to whether the accused should be held in custody in a suitable hospital facility for treatment pending determination, by the court, of mental fitness to proceed; and

(5) A recommendation as to whether the accused, if found by the court to be mentally fit to proceed, should be detained in such hospital facility pending further proceedings.

4. If the accused has pleaded lack of responsibility due to mental disease or defect or has given the written notice provided in subsection 2 of section 552.030, the court shall order the report of the examination conducted pursuant to this section to include, in addition to the information required in subsection 3 of this section, an opinion as to whether at the time of the alleged criminal conduct the accused, as a result of mental disease or defect, did not know or appreciate the nature, quality, or wrongfulness of his conduct or as a result of mental disease or defect was incapable of conforming his conduct to the requirements of law. A plea of not guilty by reason of mental disease or defect shall not be accepted by the court in the absence of any

such pretrial evaluation which supports such a defense. In addition, if the accused has pleaded not guilty by reason of mental disease or defect, and the alleged crime is not a dangerous felony as defined in section 556.061, or those crimes set forth in subsection 11 of section 552.040, or the attempts thereof, the court shall order the report of the examination to include an opinion as to whether or not the accused should be immediately conditionally released by the court pursuant to the provisions of section 552.040 or should be committed to a mental health or **[**mental retardation**] developmental disability** facility. If such an evaluation is conducted at the direction of the director of the department of mental health, the court shall also order the report of the examination to include an opinion as to the conditions of release which are consistent with the needs of the accused and the interest of public safety, including, but not limited to, the following factors:

(1) Location and degree of necessary supervision of housing;

(2) Location of and responsibilities for appropriate psychiatric, rehabilitation and aftercare services, including the frequency of such services;

(3) Medication follow-up, including necessary testing to monitor medication compliance;

(4) At least monthly contact with the department's forensic case monitor;

(5) Any other conditions or supervision as may be warranted by the circumstances of the case.

5. If the report contains the recommendation that the accused should be committed to or held in a suitable hospital facility pending determination of the issue of mental fitness to proceed, and if the accused is not admitted to bail or released on other conditions, the court may order that the accused be committed to or held in a suitable hospital facility pending determination of the issue of mental fitness to proceed.

6. The clerk of the court shall deliver copies of the report to the prosecuting or circuit attorney and to the accused or his counsel. The report shall not be a public record or open to the public. Within ten days after the filing of the report, both the defendant and the state shall, upon written request, be entitled to an order granting them an examination of the accused by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded or mentally ill individuals**] persons with an intellectual disability or developmental disability or mental illness**, of their own choosing and at their own expense. An examination performed pursuant to this subsection shall be completed and a report filed with the court within sixty days of the date it is received by the department or private psychiatrist, psychologist or physician unless the court, for good cause, orders otherwise. A copy shall be furnished the opposing party.

7. If neither the state nor the accused nor his counsel requests a second examination relative to fitness to proceed or contests the findings of the report referred to in subsections 2 and 3 of this section, the court may make a determination and finding on the basis of the report filed or may hold a hearing on its own motion. If any such opinion is contested, the court shall hold a hearing on the issue. The court shall determine the issue of mental fitness to proceed and may impanel a jury of six persons to assist in making the determination. The report or reports may be received in evidence at any hearing on the issue but the party contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

8. At a hearing on the issue pursuant to subsection 7 of this section, the accused is presumed to have the mental fitness to proceed. The burden of proving that the accused does not have the mental fitness to proceed is by a preponderance of the evidence and the burden of going forward with the evidence is on the party raising the issue. The burden of going forward shall be on the state if the court raises the issue.

9. If the court determines that the accused lacks mental fitness to proceed, the criminal proceedings shall be suspended and the court shall commit him to the director of the department of mental health.

10. Any person committed pursuant to subsection 9 of this section shall be entitled to the writ of habeas corpus upon proper petition to the court that committed him. The issue of the mental fitness to proceed after commitment under subsection 9 of this section may also be raised by a motion filed by the director of the department of mental health or by the state, alleging the mental fitness of the accused to proceed. A report relating to the issue of the accused's mental fitness to proceed may be attached thereto. If the motion is not contested by the accused or his counsel or if after a hearing on a motion the court finds the accused mentally fit to proceed, or if he is ordered discharged from the director's custody upon a habeas corpus hearing, the criminal proceedings shall be resumed.

11. The following provisions shall apply after a commitment as provided in this section:

(1) Six months after such commitment, the court which ordered the accused committed shall order an examination by the head of the facility in which the accused is committed, or a qualified designee, to ascertain whether the accused is mentally fit to proceed and if not, whether there is a substantial probability that the accused will attain the mental fitness to proceed to trial in the foreseeable future. The order shall direct that written report or reports of the examination be filed with the clerk of the court within thirty days and the clerk shall deliver copies to the prosecuting attorney or circuit attorney and to the accused or his counsel. The report required by this subsection shall conform to the requirements under subsection 3 of this section with the additional requirement that it include an opinion, if the accused lacks mental fitness to proceed, as to whether there is a substantial probability that the accused will attain the mental fitness to proceed in the foreseeable future;

(2) Within ten days after the filing of the report, both the accused and the state shall, upon written request, be entitled to an order granting them an examination of the accused by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded or mentally ill individuals**] persons with an intellectual disability or developmental disability or mental illness**, of their own choosing and at their own expense. An examination performed pursuant to this subdivision shall be completed and filed with the court within thirty days unless the court, for good cause, orders otherwise. A copy shall be furnished to the opposing party;

(3) If neither the state nor the accused nor his counsel requests a second examination relative to fitness to proceed or contests the findings of the report referred to in subdivision (1) of this subsection, the court may make a determination and finding on the basis of the report filed, or may hold a hearing on its own motion. If any such opinion is contested, the court shall hold a hearing on the issue. The report or reports may be received in evidence at any hearing on the issue but the party contesting any opinion therein relative to fitness to proceed shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue;

(4) If the accused is found mentally fit to proceed, the criminal proceedings shall be resumed;

(5) If it is found that the accused lacks mental fitness to proceed but there is a substantial probability the accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall continue such commitment for a period not longer than six months, after which the court shall reinstitute the proceedings required under subdivision (1) of this subsection;

(6) If it is found that the accused lacks mental fitness to proceed and there is no substantial probability that the accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall dismiss the charges without prejudice and the accused shall be discharged, but only if proper proceedings have been filed under chapter 632 or chapter 475, in which case those sections and no others will be applicable. The probate division of the circuit court shall have concurrent jurisdiction over the accused upon the filing of a proper pleading to determine if the accused shall be involuntarily detained under chapter 632, or to determine if the accused shall be declared incapacitated under chapter 475, and approved for admission by the guardian under section 632.120 or 633.120, to a mental health or **[**retardation**] developmental disability** facility.

When such proceedings are filed, the criminal charges shall be dismissed without prejudice if the court finds that the accused is mentally ill and should be committed or that he is incapacitated and should have a guardian appointed. The period of limitation on prosecuting any criminal offense shall be tolled during the period that the accused lacks mental fitness to proceed.

12. If the question of the accused's mental fitness to proceed was raised after a jury was impaneled to try the issues raised by a plea of not guilty and the court determines that the accused lacks the mental fitness to proceed or orders the accused committed for an examination pursuant to this section, the court may declare a mistrial. Declaration of a mistrial under these circumstances, or dismissal of the charges pursuant to subsection 11 of this section, does not constitute jeopardy, nor does it prohibit the trial, sentencing or execution of the accused for the same offense after he has been found restored to competency.

13. The result of any examinations made pursuant to this section shall not be a public record or open to the public.

14. No statement made by the accused in the course of any examination or treatment pursuant to this section and no information received by any examiner or other person in the course thereof, whether such examination or treatment was made with or without the consent of the accused or upon his motion or upon that of others, shall be admitted in evidence against the accused on the issue of guilt in any criminal proceeding then or thereafter pending in any court, state or federal. A finding by the court that the accused is mentally fit to proceed shall in no way prejudice the accused in a defense to the crime charged on the ground that at the time thereof he was afflicted with a mental disease or defect excluding responsibility, nor shall such finding by the court be introduced in evidence on that issue nor otherwise be brought to the notice of the jury.

552.030. MENTAL DISEASE OR DEFECT, NOT GUILTY PLEA BASED ON, PRETRIAL INVESTIGATION — EVIDENCE — NOTICE OF DEFENSE — EXAMINATION, REPORTS CONFIDENTIAL — STATEMENTS NOT ADMISSIBLE, EXCEPTION — PRESUMPTION OF COMPETENCY — VERDICT CONTENTS — ORDER OF COMMITMENT TO DEPARTMENT. — 1. A person is not responsible for criminal conduct if, at the time of such conduct, as a result of mental disease or defect such person was incapable of knowing and appreciating the nature, quality, or wrongfulness of such person's conduct.

2. Evidence of mental disease or defect excluding responsibility shall not be admissible at trial of the accused unless the accused, at the time of entering such accused's plea to the charge, pleads not guilty by reason of mental disease or defect excluding responsibility, or unless within ten days after a plea of not guilty, or at such later date as the court may for good cause permit, the accused files a written notice of such accused's purpose to rely on such defense. Such a plea or notice shall not deprive the accused of other defenses. The state may accept a defense of mental disease or defect excluding responsibility, whether raised by plea or written notice, if the accused has no other defense and files a written notice to that effect. The state shall not accept a defense of mental disease or defect excluding responsibility in the absence of any pretrial evaluation as described in this section or section 552.020. Upon the state's acceptance of the defense of mental disease or defect excluding responsibility, the court shall proceed to order the commitment of the accused as provided in section 552.040 in cases of persons acquitted on the ground of mental disease or defect excluding responsibility, and further proceedings shall be had regarding the confinement and release of the accused as provided in section 552.040.

3. Whenever the accused has pleaded mental disease or defect excluding responsibility or has given the written notice provided in subsection 2 of this section, and such defense has not been accepted as provided in subsection 2 of this section, the court shall, after notice and upon motion of either the state or the accused, by order of record, appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded or mentally ill individuals**] persons with an intellectual disability or developmental disability**

or mental illness, who are neither employees nor contractors of the department of mental health for purposes of performing the examination in question, to examine the accused, or shall direct the director of the department of mental health, or the director's designee, to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded or mentally ill individuals**] persons with an intellectual disability or developmental disability or mental illness** designated by the director, or the director's designee, as qualified to perform examinations pursuant to this chapter. The order shall direct that written report or reports of such examination be filed with the clerk of the court. No private psychiatrist, psychologist, or physician shall be appointed by the court unless such psychiatrist, psychologist or physician has consented to act. The examinations ordered shall be made at such time and place and under such conditions as the court deems proper; except that, if the order directs the director of the department of mental health to have the accused examined, the director, or the director's designee, shall determine the time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses and may require the provision of police reports to the department for use in evaluation. If an examination provided in section 552.020 was made and the report of such examination included an opinion as to whether, at the time of the alleged criminal conduct, the accused, as a result of mental disease or defect, did not know or appreciate the nature, quality or wrongfulness of such accused's conduct or as a result of mental disease or defect was incapable of conforming such accused's conduct to the requirements of law, such report may be received in evidence, and no new examination shall be required by the court unless, in the discretion of the court, another examination is necessary. If an examination is ordered pursuant to this section, the report shall contain the information required in subsections 3 and 4 of section 552.020. Within ten days after receiving a copy of such report, both the accused and the state shall, upon written request, be entitled to an order granting them an examination of the accused by an examiner of such accused's or its own choosing and at such accused's or its expense. The clerk of the court shall deliver copies of the report or reports to the prosecuting or circuit attorney and to the accused or his counsel. No reports required by this subsection shall be public records or be open to the public. Any examination performed pursuant to this subsection shall be completed and the results shall be filed with the court within sixty days of the date it is received by the department or private psychiatrist, psychologist or physician unless the court, for good cause, orders otherwise.

4. If the report contains the recommendation that the accused should be held in custody in a suitable hospital facility pending trial, and if the accused is not admitted to bail, or released on other conditions, the court may order that the accused be committed to or held in a suitable hospital facility pending trial.

5. No statement made by the accused in the course of any such examination and no information received by any physician or other person in the course thereof, whether such examination was made with or without the consent of the accused or upon the accused's motion or upon that of others, shall be admitted in evidence against the accused on the issue of whether the accused committed the act charged against the accused in any criminal proceeding then or thereafter pending in any court, state or federal. The statement or information shall be admissible in evidence for or against the accused only on the issue of the accused's mental condition, whether or not it would otherwise be deemed to be a privileged communication. If the statement or information is admitted for or against the accused on the issue of the accused's mental condition, the court shall, both orally at the time of its admission and later by instruction, inform the jury that it must not consider such statement or information as any evidence of whether the accused committed the act charged against the accused.

6. All persons are presumed to be free of mental disease or defect excluding responsibility for their conduct, whether or not previously adjudicated in this or any other state to be or to have been sexual or social psychopaths, or incompetent; provided, however, the court may admit

evidence presented at such adjudication based on its probative value. The issue of whether any person had a mental disease or defect excluding responsibility for such person's conduct is one for the trier of fact to decide upon the introduction of substantial evidence of lack of such responsibility. But, in the absence of such evidence, the presumption shall be conclusive. Upon the introduction of substantial evidence of lack of such responsibility, the presumption shall not disappear and shall alone be sufficient to take that issue to the trier of fact. The jury shall be instructed as to the existence and nature of such presumption when requested by the state and, where the issue of such responsibility is one for the jury to decide, the jury shall be told that the burden rests upon the accused to show by a preponderance or greater weight of the credible evidence that the defendant was suffering from a mental disease or defect excluding responsibility at the time of the conduct charged against the defendant. At the request of the defense the jury shall be instructed by the court as to the contents of subsection 2 of section 552.040.

7. When the accused is acquitted on the ground of mental disease or defect excluding responsibility, the verdict and the judgment shall so state as well as state the offense for which the accused was acquitted. The clerk of the court shall furnish a copy of any judgment or order of commitment to the department of mental health pursuant to this section to the criminal records central repository pursuant to section 43.503.

552.040. DEFINITIONS — ACQUITTAL BASED ON MENTAL DISEASE OR DEFECT, COMMITMENT TO STATE HOSPITAL REQUIRED — IMMEDIATE CONDITIONAL RELEASE — CONDITIONAL OR UNCONDITIONAL RELEASE, WHEN — PRIOR COMMITMENT, AUTHORITY TO REVOKE — APPLICATIONS FOR RELEASE, NOTICE, BURDEN OF PERSUASION, CRITERIA — HEARINGS REQUIRED, WHEN — DENIAL, REAPPLICATION — ESCAPE, NOTICE — ADDITIONAL CRITERIA FOR RELEASE. — 1. For the purposes of this section, the following words mean:

(1) "Prosecutor of the jurisdiction", the prosecuting attorney in a county or the circuit attorney of a city not within a county;

(2) "Secure facility", a state mental health facility, state **[**mental retardation**] developmental disability** facility, private facility under contract with the department of mental health, or a section within any of these facilities, in which persons committed to the department of mental health pursuant to this chapter, shall not be permitted to move about the facility or section of the facility, nor to leave the facility or section of the facility, without approval by the head of the facility or such head's designee and adequate supervision consistent with the safety of the public and the person's treatment, habilitation or rehabilitation plan;

(3) "Tried and acquitted" includes both pleas of mental disease or defect excluding responsibility that are accepted by the court and acquittals on the ground of mental disease or defect excluding responsibility following the proceedings set forth in section 552.030.

2. When an accused is tried and acquitted on the ground of mental disease or defect excluding responsibility, the court shall order such person committed to the director of the department of mental health for custody. The court shall also order custody and care in a state mental health or retardation facility unless an immediate conditional release is granted pursuant to this section. If the accused has not been charged with a dangerous felony as defined in section 556.061, or with murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040, or the attempts thereof, and the examination contains an opinion that the accused should be immediately conditionally released to the community by the court, the court shall hold a hearing to determine if an immediate conditional release is appropriate pursuant to the procedures for conditional release set out in subsections 10 to 14 of this section. Prior to the hearing, the court shall direct the director of the department of mental health, or the director's designee, to have the accused examined to determine conditions of confinement in accordance with subsection 4 of section 552.020. The provisions of subsection 16 of this section shall be applicable to defendants granted an immediate conditional release and the director shall honor

the immediate conditional release as granted by the court. If the court determines that an immediate conditional release is warranted, the court shall order the person committed to the director of the department of mental health before ordering such a release. The court granting the immediate conditional release shall retain jurisdiction over the case for the duration of the conditional release. This shall not limit the authority of the director of the department of mental health or the director's designee to revoke the conditional release or the trial release of any committed person pursuant to subsection 17 of this section. If the accused is committed to a mental health or **[**mental retardation**] developmental disability** facility, the director of the department of mental health, or the director's designee, shall determine the time, place and conditions of confinement.

3. The provisions of sections 630.110, 630.115, 630.130, 630.133, 630.135, 630.140, 630.145, 630.150, 630.180, 630.183, 630.192, 630.194, 630.196, 630.198, 630.805, 632.370, 632.395, and 632.435 shall apply to persons committed pursuant to subsection 2 of this section. If the department does not have a treatment or rehabilitation program for a mental disease or defect of an individual, that fact may not be the basis for a release from commitment. Notwithstanding any other provision of law to the contrary, no person committed to the department of mental health who has been tried and acquitted by reason of mental disease or defect as provided in section 552.030 shall be conditionally or unconditionally released unless the procedures set out in this section are followed. Upon request by an indigent committed person, the appropriate court may appoint the office of the public defender to represent such person in any conditional or unconditional release proceeding under this section.

4. Notwithstanding section 630.115, any person committed pursuant to subsection 2 of this section shall be kept in a secure facility until such time as a court of competent jurisdiction enters an order granting a conditional or unconditional release to a nonsecure facility.

5. The committed person or the head of the facility where the person is committed may file an application in the court that committed the person seeking an order releasing the committed person unconditionally; except that any person who has been denied an application for a conditional release pursuant to subsection 13 of this section shall not be eligible to file for an unconditional release until the expiration of one year from such denial. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the released person or the director of the department of mental health, or the director's designee, may file an application in the same court that released the committed person seeking an order releasing the committed person unconditionally. Copies of the application shall be served personally or by certified mail upon the head of the facility unless the head of the facility files the application, the committed person unless the committed person files the application, or unless the committed person was immediately conditionally released, the director of the department of mental health, and the prosecutor of the jurisdiction where the committed person was tried and acquitted. Any party objecting to the proposed release must do so in writing within thirty days after service. Within a reasonable period of time after any written objection is filed, which period shall not exceed sixty days unless otherwise agreed upon by the parties, the court shall hold a hearing upon notice to the committed person, the head of the facility, if necessary, the director of the department of mental health, and the prosecutor of the jurisdiction where the person was tried. Prior to the hearing any of the parties, upon written application, shall be entitled to an examination of the committed person, by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to mentally retarded or mentally ill individuals of its own choosing and at its expense. The report of the mental condition of the committed person shall accompany the application. By agreement of all parties to the proceeding any report of the mental condition of the committed person which may accompany the application for release or which is filed in objection thereto may be received by evidence, but the party contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

6. By agreement of all the parties and leave of court, the hearing may be waived, in which case an order granting an unconditional release shall be entered in accordance with subsection 8 of this section.

7. At a hearing to determine if the committed person should be unconditionally released, the court shall consider the following factors in addition to any other relevant evidence:

(1) Whether or not the committed person presently has a mental disease or defect;

(2) The nature of the offense for which the committed person was committed;

(3) The committed person's behavior while confined in a mental health facility;

(4) The elapsed time between the hearing and the last reported unlawful or dangerous act;

(5) Whether the person has had conditional releases without incident; and

(6) Whether the determination that the committed person is not dangerous to himself or others is dependent on the person's taking drugs, medicine or narcotics. The burden of persuasion for any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility shall be on the party seeking unconditional release to prove by clear and convincing evidence that the person for whom unconditional release is sought does not have, and in the reasonable future is not likely to have, a mental disease or defect rendering the person dangerous to the safety of himself or others.

8. The court shall enter an order either denying the application for unconditional release or granting an unconditional release. An order denying the application shall be without prejudice to the filing of another application after the expiration of one year from the denial of the last application.

9. No committed person shall be unconditionally released unless it is determined through the procedures in this section that the person does not have, and in the reasonable future is not likely to have, a mental disease or defect rendering the person dangerous to the safety of himself or others.

10. The committed person or the head of the facility where the person is committed may file an application in the court having probate jurisdiction over the facility where the person is detained for a hearing to determine whether the committed person shall be released conditionally. In the case of a person committed to a mental health facility upon acquittal on the grounds of mental disease or defect excluding responsibility for a dangerous felony as defined in section 556.061, murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040, any such application shall be filed in the court that committed the person. In such cases, jurisdiction over the application for conditional release shall be in the committing court. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the released person or the director of the department of mental health, or the director's designee, may file an application in the same court that released the person seeking to amend or modify the existing release. The procedures for application for unconditional releases set out in subsection 5 of this section shall apply, with the following additional requirements:

(1) A copy of the application shall also be served upon the prosecutor of the jurisdiction where the person is being detained, unless the released person was immediately conditionally released after being committed to the department of mental health, or unless the application was required to be filed in the court that committed the person in which case a copy of the application shall be served upon the prosecutor of the jurisdiction where the person was tried and acquitted and the prosecutor of the jurisdiction into which the committed person is to be released;

(2) The prosecutor of the jurisdiction where the person was tried and acquitted shall use their best efforts to notify the victims of dangerous felonies. Notification by the appropriate person or agency by certified mail to the most current address provided by the victim shall constitute compliance with the victim notification requirement of this section;

(3) The application shall specify the conditions and duration of the proposed release;

(4) The prosecutor of the jurisdiction where the person is being detained shall represent the public safety interest at the hearing unless the prosecutor of the jurisdiction where the person was tried and acquitted decides to appear to represent the public safety interest. If the application for release was required to be filed in the committing court, the prosecutor of the jurisdiction where the person was tried and acquitted shall represent the public safety interest. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the prosecutor of the jurisdiction where the person was tried and acquitted shall appear and represent the public safety interest.

11. By agreement of all the parties, the hearing may be waived, in which case an order granting a conditional release, stating the conditions and duration agreed upon by all the parties and the court, shall be entered in accordance with subsection 13 of this section.

12. At a hearing to determine if the committed person should be conditionally released, the court shall consider the following factors in addition to any other relevant evidence:

(1) The nature of the offense for which the committed person was committed;

(2) The person's behavior while confined in a mental health facility;

(3) The elapsed time between the hearing and the last reported unlawful or dangerous act;

(4) The nature of the person's proposed release plan;

(5) The presence or absence in the community of family or others willing to take responsibility to help the defendant adhere to the conditions of the release; and

(6) Whether the person has had previous conditional releases without incident. The burden of persuasion for any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility shall be on the party seeking release to prove by clear and convincing evidence that the person for whom release is sought is not likely to be dangerous to others while on conditional release.

13. The court shall enter an order either denying the application for a conditional release or granting conditional release. An order denying the application shall be without prejudice to the filing of another application after the expiration of one year from the denial of the last application.

14. No committed person shall be conditionally released until it is determined that the committed person is not likely to be dangerous to others while on conditional release.

15. If, in the opinion of the head of a facility where a committed person is being detained, that person can be released without danger to others, that person may be released from the facility for a trial release of up to ninety-six hours under the following procedure:

(1) The head of the facility where the person is committed shall notify the prosecutor of the jurisdiction where the committed person was tried and acquitted and the prosecutor of the jurisdiction into which the committed person is to be released at least thirty days before the date of the proposed trial release;

(2) The notice shall specify the conditions and duration of the release;

(3) If no prosecutor to whom notice is required objects to the trial release, the committed person shall be released according to conditions and duration specified in the notice;

(4) If any prosecutor objects to the trial release, the head of the facility may file an application with the court having probate jurisdiction over the facility where the person is detained for a hearing under the procedures set out in subsections 5 and 10 of this section with the following additional requirements:

(a) A copy of the application shall also be served upon the prosecutor of the jurisdiction into which the committed person is to be released; and

(b) The prosecutor or prosecutors who objected to the trial release shall represent the public safety interest at the hearing; and

(5) The release criteria of subsections 12 to 14 of this section shall apply at such a hearing.

16. The department shall provide or shall arrange for follow-up care and monitoring for all persons conditionally released under this section and shall make or arrange for reviews and visits with the client at least monthly, or more frequently as set out in the release plan, and whether the

client is receiving care, treatment, habilitation or rehabilitation consistent with his needs, condition and public safety. The department shall identify the facilities, programs or specialized services operated or funded by the department which shall provide necessary levels of follow-up care, aftercare, rehabilitation or treatment to the persons in geographical areas where they are released.

17. The director of the department of mental health, or the director's designee, may revoke the conditional release or the trial release and request the return of the committed person if such director or coordinator has reasonable cause to believe that the person has violated the conditions of such release. If requested to do so by the director or coordinator, a peace officer of a jurisdiction in which a patient on conditional release is found shall apprehend and return such patient to the facility. No peace officer responsible for apprehending and returning the committed person to the facility upon the request of the director or coordinator shall be civilly liable for apprehending or transporting such patient to the facility so long as such duties were performed in good faith and without negligence. If a person on conditional release is returned to a facility under the provisions of this subsection, a hearing shall be held within ninety-six hours, excluding Saturdays, Sundays and state holidays, to determine whether the person violated the conditions of the release or whether resumption of full-time hospitalization is the least restrictive alternative consistent with the person's needs and public safety. The director of the department of mental health, or the director's designee, shall conduct the hearing. The person shall be given notice at least twenty-four hours in advance of the hearing and shall have the right to have an advocate present.

18. At any time during the period of a conditional release or trial release, the court which ordered the release may issue a notice to the released person to appear to answer a charge of a violation of the terms of the release and the court may issue a warrant of arrest for the violation. Such notice shall be personally served upon the released person. The warrant shall authorize the return of the released person to the custody of the court or to the custody of the director of mental health or the director's designee.

19. The head of a mental health facility, upon any notice that a committed person has escaped confinement, or left the facility or its grounds without authorization, shall immediately notify the prosecutor and sheriff of the county wherein the committed person is detained of the escape or unauthorized leaving of grounds and the prosecutor and sheriff of the county where the person was tried and acquitted.

20. Any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility for a dangerous felony as defined in section 556.061, murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040 shall not be eligible for conditional or unconditional release under the provisions of this section unless, in addition to the requirements of this section, the court finds that the following criteria are met:

(1) Such person is not now and is not likely in the reasonable future to commit another violent crime against another person because of such person's mental illness; and

(2) Such person is aware of the nature of the violent crime committed against another person and presently possesses the capacity to appreciate the criminality of the violent crime against another person and the capacity to conform such person's conduct to the requirements of law in the future.

630.003. DEPARTMENT CREATED — STATE MENTAL HEALTH COMMISSION — MISSOURI INSTITUTE OF MENTAL HEALTH — TRANSFERS OF POWERS AND AGENCIES. — 1. There is hereby created a department of mental health to be headed by a mental health commission who shall appoint a director, by and with the advice and consent of the senate. The director shall be the administrative head of the department and shall serve at the pleasure of the commission and be compensated as provided by law for the director, division of mental health. All employees of the department shall be selected in accordance with chapter 36.

2. (1) The "State Mental Health Commission", composed of seven members, is the successor to the former state mental health commission and it has all the powers, duties and responsibilities of the former commission. All members of the commission shall be appointed by the governor, by and with the advice and consent of the senate. None of the members shall otherwise be employed by the state of Missouri.

(2) Three of the commission members first appointed shall be appointed for terms of four years, and two shall be appointed for terms of three years, and two shall be appointed for a term of two years. The governor shall designate, at the time the appointments are made, the length of the term of each member so appointed. Thereafter all terms shall be for four years.

(3) At least two of the members of the commission shall be physicians, one of whom shall be recognized as an expert in the field of the treatment of nervous and mental diseases, and one of whom shall be recognized as an expert in the field of **[**mental retardation or of other**]** **intellectual or** developmental disabilities. At least two of the members of the commission shall be representative of persons or groups who are consumers having substantial interest in the services provided by the division, one of whom shall represent **[**the mentally retarded or developmentally disabled**]** **persons with an intellectual disability or developmental disability** and one of whom shall represent those persons being treated for nervous and mental diseases. Of the other three members at least one must be recognized for his expertise in general business management procedures, and two shall be recognized for their interest and expertise in dealing with alcohol/drug abuse problems, or community mental health services.

3. The provisions of sections 191.120, 191.125, 191.130, 191.140, 191.150, 191.160, 191.170, 191.180, 191.190, 191.200, 191.210 and others as they relate to the division of mental health not previously reassigned by executive reorganization plan number 2 of 1973 as submitted by the governor under chapter 26 are transferred by specific type transfer from the department of public health and welfare to the department of mental health. The division of mental health, department of health and welfare, chapter 202 and others are abolished and all powers, duties and functions now assigned by law to the division, the director of the divisions of mental health or any of the institutions or officials of the division are transferred by type I transfer to the department of mental health.

4. The Missouri institute of psychiatry, which is under the board of curators of the University of Missouri is hereafter to be known as the "Missouri Institute of Mental Health". The purpose of the institute will be that of conducting research into improving services for persons served by the department of mental health for fostering the training of psychiatric residents in public psychiatry and for fostering excellence in mental health services through employee training and the study of mental health policy and ethics. To assist in this training, hospitals operated by and providers contracting with the department of mental health may be used for the same purposes and under the same arrangements as the board of curators of the University of Missouri utilizes with other hospitals in the state in supervising residency training for medical doctors. Appropriations requests for the Missouri institute of mental health shall be jointly developed by the University of Missouri and the department of mental health. All appropriations for the Missouri institute of mental health shall be made to the curators of the University of Missouri but shall be submitted separately from the appropriations of the curators of the University of Missouri.

5. There is hereby established within the department of mental health a division of **[**mental retardation and**]** developmental disabilities. The director of the division shall be appointed by the director of the department. The division shall administer all state facilities under the direction and authority of the department director. The Marshall Habilitation Center, the Higginsville Habilitation Center, the Bellefontaine Habilitation Center, the Nevada Habilitation Center, the St. Louis Developmental Disabilities Treatment Centers, and the regional centers located at Albany, Columbia, Hannibal, Joplin, Kansas City, Kirksville, Poplar Bluff, Rolla, St. Louis, Sikeston and Springfield and other similar facilities as may be established, are transferred by type I transfer to the division of **[**mental retardation and**]** developmental disabilities.

6. All the duties, powers and functions of the advisory council on mental retardation and community health centers, sections 202.664 to 202.666, are hereby transferred by type I transfer to the division of mental retardation and developmental disabilities of the department of mental health. The advisory council on mental retardation and community health centers shall be appointed by the division director.

7. The advisory council on mental retardation and developmental disabilities heretofore established by executive order and all of the duties, powers and functions of the advisory council including the responsibilities of the provision of the council in regard to the Federal Development Disabilities Law (P.L. 91-517) and all amendments thereto are transferred by type I transfer to the division of mental retardation and developmental disabilities. The advisory council on mental retardation and developmental disabilities shall be appointed by the director of the division of mental retardation and developmental disabilities.

8. The advisory council on alcoholism and drug abuse, chapter 202, is transferred by type II transfer to the department of mental health and the members of the advisory council shall be appointed by the mental health director.

630.005. DEFINITIONS. — As used in this chapter and chapters 631, 632, and 633, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Administrative entity", a provider of specialized services other than transportation to clients of the department on behalf of a division of the department;

(2) "Alcohol abuse", the use of any alcoholic beverage, which use results in intoxication or in a psychological or physiological dependency from continued use, which dependency induces a mental, emotional or physical impairment and which causes socially dysfunctional behavior;

(3) "Chemical restraint", medication administered with the primary intent of restraining a patient who presents a likelihood of serious physical injury to himself or others, and not prescribed to treat a person's medical condition;

(4) "Client", any person who is placed by the department in a facility or program licensed and funded by the department or who is a recipient of services from a regional center, as defined in section 633.005;

(5) "Commission", the state mental health commission;

(6) "Consumer", a person:

(a) Who qualifies to receive department services; or

(b) Who is a parent, child or sibling of a person who receives department services; or

(c) Who has a personal interest in services provided by the department. A person who provides services to persons affected by **[**mental retardation,**]** **intellectual disabilities,** developmental disabilities, mental disorders, mental illness, or alcohol or drug abuse shall not be considered a consumer;

(7) "Day program", a place conducted or maintained by any person who advertises or holds himself out as providing prevention, evaluation, treatment, habilitation or rehabilitation for persons affected by mental disorders, mental illness, **[**mental retardation,**]** **intellectual disabilities,** developmental disabilities or alcohol or drug abuse for less than the full twenty-four hours comprising each daily period;

(8) "Department", the department of mental health of the state of Missouri;

(9) "Developmental disability", a disability:

(a) Which is attributable to:

a. Mental retardation, cerebral palsy, epilepsy, head injury or autism, or a learning disability related to a brain dysfunction; or

b. Any other mental or physical impairment or combination of mental or physical impairments; and

(b) Is manifested before the person attains age twenty-two; and

(c) Is likely to continue indefinitely; and

(d) Results in substantial functional limitations in two or more of the following areas of major life activities:

a. Self-care;

b. Receptive and expressive language development and use;

c. Learning;

d. Self-direction;

e. Capacity for independent living or economic self-sufficiency;

f. Mobility; and

(e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, habilitation or other services which may be of lifelong or extended duration and are individually planned and coordinated;

(10) "Director", the director of the department of mental health, or his designee;

(11) "Domiciled in Missouri", a permanent connection between an individual and the state of Missouri, which is more than mere residence in the state; it may be established by the individual being physically present in Missouri with the intention to abandon his previous domicile and to remain in Missouri permanently or indefinitely;

(12) "Drug abuse", the use of any drug without compelling medical reason, which use results in a temporary mental, emotional or physical impairment and causes socially dysfunctional behavior, or in psychological or physiological dependency resulting from continued use, which dependency induces a mental, emotional or physical impairment and causes socially dysfunctional behavior;

(13) "Habilitation", a process of treatment, training, care or specialized attention which seeks to enhance and maximize **[**the mentally retarded or developmentally disabled person's abilities**] a person with an intellectual disability or a developmental disability** to cope with the environment and to live as normally as possible;

(14) "Habilitation center", a residential facility operated by the department and serving only persons who are **[**mentally retarded, including**]** developmentally disabled;

(15) "Head of the facility", the chief administrative officer, or his designee, of any residential facility;

(16) "Head of the program", the chief administrative officer, or his designee, of any day program;

(17) "Individualized habilitation plan", a document which sets forth habilitation goals and objectives for **[**mentally retarded or developmentally disabled**]** residents and clients **with an intellectual disability or a developmental disability**, and which details the habilitation program as required by law, rules and funding sources;

(18) "Individualized rehabilitation plan", a document which sets forth the care, treatment and rehabilitation goals and objectives for patients and clients affected by alcohol or drug abuse, and which details the rehabilitation program as required by law, rules and funding sources;

(19) "Individualized treatment plan", a document which sets forth the care, treatment and rehabilitation goals and objectives for **[**mentally disordered or mentally ill**]** patients and clients **with mental disorders or mental illness**, and which details the treatment program as required by law, rules and funding sources;

(20) "Investigator", an employee or contract agent of the department of mental health who is performing an investigation regarding an allegation of abuse or neglect or an investigation at the request of the director of the department of mental health or his designee;

(21) "Least restrictive environment", a reasonably available setting or mental health program where care, treatment, habilitation or rehabilitation is particularly suited to the level and quality of services necessary to implement a person's individualized treatment, habilitation or rehabilitation plan and to enable the person to maximize his **or her** functioning potential to participate as freely as feasible in normal living activities, giving due consideration to potentially harmful effects on the person and the safety of other facility or program clients and public safety. For some **[**mentally disordered or mentally retarded**]** persons **with mental disorders,**

intellectual disabilities, or developmental disabilities, the least restrictive environment may be a facility operated by the department, a private facility, a supported community living situation, or an alternative community program designed for persons who are civilly detained for outpatient treatment or who are conditionally released pursuant to chapter 632;

(22) "Mental disorder", any organic, mental or emotional impairment which has substantial adverse effects on a person's cognitive, volitional or emotional function and which constitutes a substantial impairment in a person's ability to participate in activities of normal living;

(23) "Mental illness", a state of impaired mental processes, which impairment results in a distortion of a person's capacity to recognize reality due to hallucinations, delusions, faulty perceptions or alterations of mood, and interferes with an individual's ability to reason, understand or exercise conscious control over his actions. The term "mental illness" does not include the following conditions unless they are accompanied by a mental illness as otherwise defined in this subdivision:

(a) Mental retardation, developmental disability or narcolepsy;

(b) Simple intoxication caused by substances such as alcohol or drugs;

(c) Dependence upon or addiction to any substances such as alcohol or drugs;

(d) Any other disorders such as senility, which are not of an actively psychotic nature;

(24) "Mental retardation", significantly subaverage general intellectual functioning which:

(a) Originates before age eighteen; and

(b) Is associated with a significant impairment in adaptive behavior;

(25) "Minor", any person under the age of eighteen years;

(26) "Patient", an individual under observation, care, treatment or rehabilitation by any hospital or other mental health facility or mental health program pursuant to the provisions of chapter 632;

(27) "Psychosurgery",

(a) Surgery on the normal brain tissue of an individual not suffering from physical disease for the purpose of changing or controlling behavior; or

(b) Surgery on diseased brain tissue of an individual if the sole object of the surgery is to control, change or affect behavioral disturbances, except seizure disorders;

(28) "Rehabilitation", a process of restoration of a person's ability to attain or maintain normal or optimum health or constructive activity through care, treatment, training, counseling or specialized attention;

(29) "Residence", the place where the patient has last generally lodged prior to admission or, in case of a minor, where his family has so lodged; except, that admission or detention in any facility of the department shall not be deemed an absence from the place of residence and shall not constitute a change in residence;

(30) "Resident", a person receiving residential services from a facility, other than mental health facility, operated, funded or licensed by the department;

(31) "Residential facility", any premises where residential prevention, evaluation, care, treatment, habilitation or rehabilitation is provided for persons affected by mental disorders, mental illness, **[**mental retardation**] intellectual disability**, developmental disabilities or alcohol or drug abuse; except the person's dwelling;

(32) "Specialized service", an entity which provides prevention, evaluation, transportation, care, treatment, habilitation or rehabilitation services to persons affected by mental disorders, mental illness, **[**mental retardation,**] intellectual disabilities,** developmental disabilities or alcohol or drug abuse;

(33) "Vendor", a person or entity under contract with the department, other than as a department employee, who provides services to patients, residents or clients;

(34) "Vulnerable person", any person in the custody, care, or control of the department that is receiving services from an operated, funded, licensed, or certified program.

630.010. MENTAL HEALTH COMMISSION — MEMBERS, TERMS, QUALIFICATIONS, APPOINTMENT, VACANCIES, COMPENSATION — ORGANIZATION, MEETINGS. — 1. The state mental health commission, established by the omnibus reorganization act of 1974, section 9, appendix B, RSMo, shall be composed of seven members appointed by the governor, by and with the advice and consent of the senate. The terms of members appointed under the reorganization act before August 13, 1980, shall continue until the terms under which the members were regularly appointed expire. The terms shall be for four years. Each commissioner shall hold office until his successor has been appointed and qualified.

2. The commission shall be comprised of members who are not prohibited from serving by sections 105.450 to 105.482, as amended, and who are not otherwise employed by the state. The commission shall be composed of the following:

(1) A physician recognized as an expert in the treatment of mental illness;

(2) A physician recognized as an expert in the evaluation or habilitation of **[**the mentally retarded and developmentally disabled**] persons with an intellectual disability or developmental disability**;

(3) A representative of groups who are consumers or families of consumers interested in the services provided by the department in the treatment of mental illness;

(4) A representative of groups who are consumers or families of consumers interested in the services provided by the department in the habilitation of **[**the mentally retarded**] persons with an intellectual disability or developmental disability**;

(5) A person recognized for his expertise in general business matters and procedures;

(6) A person recognized for his interest and expertise in dealing with alcohol or drug abuse; and

(7) A person recognized for his interest or expertise in community mental health services.

3. Vacancies occurring on the commission shall be filled by appointment by the governor, by and with the advice and consent of the senate, for the unexpired terms. In case of a vacancy when the senate is not in session, the governor shall make a temporary appointment until the next session of the general assembly, when he shall nominate someone to fill the office.

4. The commission shall elect from its members a chairman and a secretary. Meetings shall be held at least once a month, and special meetings may be held at the call of the chairman.

5. The department shall pay the commission members one hundred dollars per day for each day, or portion thereof, they actually spend in transacting the business of the commission and shall reimburse the commission members for necessary expenses actually incurred in the performance of their official duties.

630.053. MENTAL HEALTH EARNINGS FUND — USES — RULES AND REGULATIONS, PROCEDURE. — 1. There is hereby created in the state treasury a fund to be known as the "Mental Health Earnings Fund". The state treasurer shall credit to the fund any interest earned from investing the moneys in the fund. Notwithstanding the provisions of section 33.080, money in the mental health earnings fund shall not be transferred and placed to the credit of general revenue at the end of the biennium.

2. Fees received pursuant to the substance abuse traffic offenders program shall be deposited in the mental health earnings fund. Such fees shall not be used for personal services, expenses and equipment or for any demonstration or other program. No other federal or state funds shall be deposited in the fund, except for the purposes provided in subsections 3 **[**and 4**] to 5** of this section. The moneys received from such fees shall be appropriated solely for assistance in securing alcohol and drug rehabilitation services for persons who are unable to pay for the services they receive.

3. The mental health earnings fund may be used for the deposit of revenue received for the provision of services under a managed care agreement entered into by the department of mental health. Subject to the approval through the appropriation process, such revenues may be expended for the purposes of providing such services pursuant to the managed care agreement

and for no other purpose and shall be accounted for separately from all other revenues deposited in the fund.

4. The mental health earnings fund may, if approved through the appropriation process, be used for the deposit of revenue received pursuant to an agreement entered into by the department of mental health and an alcohol and drug abuse counselor certification board for the purpose of providing oversight of counselor certification. Such revenue shall be accounted for separately from all other revenues deposited in the fund.

5. **The mental health earnings fund may be used for the deposit of revenue received from proceeds of any sales and services from Mental Health First Aid USA. Subject to the approval through the appropriation process, such proceeds shall be used for the purpose of funding Mental Health First Aid USA activities and shall be accounted for separately from all other revenues deposited in the fund.**

6. The department of mental health shall promulgate rules and regulations to implement and administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

630.095. COPYRIGHTS AND TRADEMARKS BY DEPARTMENT. — The department may copyright or obtain a trademark for any instructional, training and informational audio-visual materials, manuals and documents which are prepared by department personnel or by persons who receive department funding to prepare such material. If the material is sold directly or for distribution, the department shall pay the proceeds of the sales to the director of revenue for deposit to the general revenue fund**, except for proceeds received under subsection 5 of section 630.053**.

630.097. COMPREHENSIVE CHILDREN'S MENTAL HEALTH SERVICE SYSTEM TO BE DEVELOPED — TEAM ESTABLISHED, MEMBERS, DUTIES — PLAN TO BE DEVELOPED, CONTENT — EVALUATIONS TO BE CONDUCTED, WHEN. — 1. The department of mental health shall develop, in partnership with all departments represented on the children's services commission, a unified accountable comprehensive children's mental health service system. The department of mental health shall establish a state interagency comprehensive children's mental health service system team comprised of representation from:

(1) Family-run organizations and family members;

(2) Child advocate organizations;

(3) The department of health and senior services;

(4) The department of social services' children's division, division of youth services, and the division of medical services;

(5) The department of elementary and secondary education;

(6) The department of mental health's division of alcohol and drug abuse, division of **[**mental retardation and**]** developmental disabilities, and the division of comprehensive psychiatric services;

(7) The department of public safety;

(8) The office of state courts administrator;

(9) The juvenile justice system; and

(10) Local representatives of the member organizations of the state team to serve children with emotional and behavioral disturbance problems, developmental disabilities, and substance abuse problems. The team shall be called "The Comprehensive System Management Team". There shall be a stakeholder advisory committee to provide input to the comprehensive system management team to assist the departments in developing strategies and to ensure positive outcomes for children are being achieved. The department of mental health shall obtain input from appropriate consumer and family advocates when selecting family members for the comprehensive system management team, in consultation with the departments that serve on the

children's services commission. The implementation of a comprehensive system shall include all state agencies and system partner organizations involved in the lives of the children served. These system partners may include private and not-for-profit organizations and representatives from local system of care teams and these partners may serve on the stakeholder advisory committee. The department of mental health shall promulgate rules for the implementation of this section in consultation with all of the departments represented on the children's services commission.

2. The department of mental health shall, in partnership with the departments serving on the children's services commission and the stakeholder advisory committee, develop a state comprehensive children's mental health service system plan. This plan shall be developed and submitted to the governor, the general assembly, and children's services commission by December, 2004. There shall be subsequent annual reports that include progress toward outcomes, monitoring, changes in populations and services, and emerging issues. The plan shall:

(1) Describe the mental health service and support needs of Missouri's children and their families, including the specialized needs of specific segments of the population;

(2) Define the comprehensive array of services including services such as intensive home-based services, early intervention services, family support services, respite services, and behavioral assistance services;

(3) Establish short- and long-term goals, objectives, and outcomes;

(4) Describe and define the parameters for local implementation of comprehensive children's mental health system teams;

(5) Describe and emphasize the importance of family involvement in all levels of the system;

(6) Describe the mechanisms for financing, and the cost of implementing the comprehensive array of services;

(7) Describe the coordination of services across child-serving agencies and at critical transition points, with emphasis on the involvement of local schools;

(8) Describe methods for service, program, and system evaluation;

(9) Describe the need for, and approaches to, training and technical assistance; and

(10) Describe the roles and responsibilities of the state and local child-serving agencies in implementing the comprehensive children's mental health care system.

3. The comprehensive system management team shall collaborate to develop uniform language to be used in intake and throughout the provision of services.

4. The comprehensive children's mental health services system shall:

(1) Be child centered, family focused, strength based, and family driven, with the needs of the child and family dictating the types and mix of services provided, and shall include the families as full participants in all aspects of the planning and delivery of services;

(2) Provide community-based mental health services to children and their families in the context in which the children live and attend school;

(3) Respond in a culturally competent and responsive manner;

(4) Emphasize prevention, early identification, and intervention;

(5) Assure access to a continuum of services that:

(a) Educate the community about the mental health needs of children;

(b) Address the unique physical, behavioral, emotional, social, developmental, and educational needs of children;

(c) Are coordinated with the range of social and human services provided to children and their families by local school districts, **the departments of** social services, health and senior services, **and** public safety, juvenile offices, and the juvenile and family courts;

(d) Provide a comprehensive array of services through an integrated service plan;

(e) Provide services in the least restrictive most appropriate environment that meets the needs of the child; and

(f) Are appropriate to the developmental needs of children;

(6) Include early screening and prompt intervention to:

(a) Identify and treat the mental health needs of children in the least restrictive environment appropriate to their needs; and

(b) Prevent further deterioration;

(7) Address the unique problems of paying for mental health services for children, including:

(a) Access to private insurance coverage;

(b) Public funding, including:

a. Assuring that funding follows children across departments; and

b. Maximizing federal financial participation;

(c) Private funding and services;

(8) Assure a smooth transition from child to adult mental health services when needed;

(9) Coordinate a service delivery system inclusive of services, providers, and schools that serve children and youth with emotional and behavioral disturbance problems, and their families through state agencies that serve on the state comprehensive children's management team; and

(10) Be outcome based.

5. By August 28, 2007, and periodically thereafter, the children's services commission shall conduct and distribute to the general assembly an evaluation of the implementation and effectiveness of the comprehensive children's mental health care system, including an assessment of family satisfaction and the progress of achieving outcomes.

630.120. NO PRESUMPTIONS. — No patient or resident, either voluntary or involuntary, shall be presumed to be incompetent, to forfeit any legal right, responsibility or obligation or to suffer any legal disability as a citizen, unless otherwise prescribed by law, as a consequence of receiving evaluation, care, treatment, habilitation or rehabilitation for a mental disorder, mental illness, **[**mental retardation**] intellectual disability**, developmental disability, alcohol problem or drug problem.

630.165. SUSPECTED ABUSE OF PATIENT, REPORT, BY WHOM MADE, CONTENTS — EFFECT OF FAILURE TO REPORT — PENALTY. — 1. When any physician, physician assistant, dentist, chiropractor, optometrist, podiatrist, intern, resident, nurse, nurse practitioner, medical examiner, social worker, licensed professional counselor, certified substance abuse counselor, psychologist, other health practitioner, minister, Christian Science practitioner, peace officer, pharmacist, physical therapist, facility administrator, nurse's aide, orderly or any other direct-care staff in a residential facility, day program, group home or **[**mental retardation**] developmental disability** facility as defined in section 633.005, or specialized service operated, licensed, certified, or funded by the department or in a mental health facility or mental health program in which people may be admitted on a voluntary basis or are civilly detained pursuant to chapter 632, or employee of the departments of social services, mental health, or health and senior services; or home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer, long-term care facility administrator or employee; mental health professional, probation or parole officer, or other nonfamilial person with responsibility for the care of a patient, resident, or client of a facility, program, or service has reasonable cause to suspect that a patient, resident or client of a facility, program or service has been subjected to abuse or neglect or observes such person being subjected to conditions or circumstances that would reasonably result in abuse or neglect, he or she shall immediately report or cause a report to be made to the department in accordance with section 630.163.

2. Any person who knowingly fails to make a report as required in subsection 1 of this section is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this section shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state

in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

3. Every person who has been previously convicted of or pled guilty to failing to make a report as required in subsection 1 of this section and who is subsequently convicted of failing to make a report under subsection 2 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violation of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

4. Any person who knowingly files a false report of vulnerable person abuse or neglect is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

5. Every person who has been previously convicted of or pled guilty to making a false report to the department and who is subsequently convicted of making a false report under subsection 4 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

6. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

7. Any residential facility, day program, or specialized service operated, funded, or licensed by the department that prevents or discourages a patient, resident, **[**or**]** client, employee, or other person from reporting that a patient, resident, or client of a facility, program, or service has been abused or neglected shall be subject to loss of their license issued pursuant to sections 630.705 to 630.760 and civil fines of up to five thousand dollars for each attempt to prevent or discourage reporting.

630.167. INVESTIGATION OF REPORT, WHEN MADE, BY WHOM — ABUSE PREVENTION BY REMOVAL, PROCEDURE — REPORTS CONFIDENTIAL, PRIVILEGED, EXCEPTIONS — IMMUNITY OF REPORTER, NOTIFICATION — RETALIATION PROHIBITED — ADMINISTRATIVE DISCHARGE OF EMPLOYEE, APPEAL PROCEDURE. — 1. Upon receipt of a report, the department or the department of health and senior services, if such facility or program is licensed pursuant to chapter 197, shall initiate an investigation within twenty-four hours.

2. If the investigation indicates possible abuse or neglect of a patient, resident or client, the investigator shall refer the complaint together with the investigator's report to the department director for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate removal from a facility not operated or funded by the department is necessary to protect the residents from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the residents in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the resident for a period not to exceed thirty days.

3. (1) Except as otherwise provided in this section, reports referred to in section 630.165 and the investigative reports referred to in this section shall be confidential, shall not be deemed a public record, and shall not be subject to the provisions of section 109.180 or chapter 610. Investigative reports pertaining to abuse and neglect shall remain confidential until a final report

is complete, subject to the conditions contained in this section. Final reports of substantiated abuse or neglect issued on or after August 28, 2007, are open and shall be available for release in accordance with chapter 610. The names and all other identifying information in such final substantiated reports, including diagnosis and treatment information about the patient, resident, or client who is the subject of such report, shall be confidential and may only be released to the patient, resident, or client who has not been adjudged incapacitated under chapter 475, the custodial parent or guardian parent, or other guardian of the patient, resident or client. The names and other descriptive information of the complainant, witnesses, or other persons for whom findings are not made against in the final substantiated report shall be confidential and not deemed a public record. Final reports of unsubstantiated allegations of abuse and neglect shall remain closed records and shall only be released to the parents or other guardian of the patient, resident, or client who is the subject of such report, patient, resident, or client and the department vendor, provider, agent, or facility where the patient, resident, or client was receiving department services at the time of the unsubstantiated allegations of abuse and neglect, but the names and any other descriptive information of the complainant or any other person mentioned in the reports shall not be disclosed unless such complainant or person specifically consents to such disclosure. Requests for final reports of substantiated or unsubstantiated abuse or neglect from a patient, resident or client who has not been adjudged incapacitated under chapter 475 may be denied or withheld if the director of the department or his or her designee determines that such release would jeopardize the person's therapeutic care, treatment, habilitation, or rehabilitation, or the safety of others and provided that the reasons for such denial or withholding are submitted in writing to the patient, resident or client who has not been adjudged incapacitated under chapter 475. All reports referred to in this section shall be admissible in any judicial proceedings or hearing in accordance with section **[**36.390**] 621.075** or any administrative hearing before the director of the department of mental health, or the director's designee. All such reports may be disclosed by the department of mental health to law enforcement officers and public health officers, but only to the extent necessary to carry out the responsibilities of their offices, and to the department of social services, and the department of health and senior services, and to boards appointed pursuant to sections 205.968 to 205.990 that are providing services to the patient, resident or client as necessary to report or have investigated abuse, neglect, or rights violations of patients, residents or clients provided that all such law enforcement officers, public health officers, department of social services' officers, department of health and senior services' officers, and boards shall be obligated to keep such information confidential.

(2) Except as otherwise provided in this section, the proceedings, findings, deliberations, reports and minutes of committees of health care professionals as defined in section 537.035 or mental health professionals as defined in section 632.005 who have the responsibility to evaluate, maintain, or monitor the quality and utilization of mental health services are privileged and shall not be subject to the discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible into evidence into any judicial or administrative action for failure to provide adequate or appropriate care. Such committees may exist, either within department facilities or its agents, contractors, or vendors, as applicable. Except as otherwise provided in this section, no person who was in attendance at any investigation or committee proceeding shall be permitted or required to disclose any information acquired in connection with or in the course of such proceeding or to disclose any opinion, recommendation or evaluation of the committee or board or any member thereof; provided, however, that information otherwise discoverable or admissible from original sources is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before any committee or in the course of any investigation, nor is any member, employee or agent of such committee or other person appearing before it to be prevented from testifying as to matters within their personal knowledge and in accordance with the other provisions of this section, but such witness cannot be questioned about the testimony or other proceedings before any investigation or before any committee.

(3) Nothing in this section shall limit authority otherwise provided by law of a health care licensing board of the state of Missouri to obtain information by subpoena or other authorized process from investigation committees or to require disclosure of otherwise confidential information relating to matters and investigations within the jurisdiction of such health care licensing boards; provided, however, that such information, once obtained by such board and associated persons, shall be governed in accordance with the provisions of this subsection.

(4) Nothing in this section shall limit authority otherwise provided by law in subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to records by the entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. Sections 15042 to 15044 and the entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. 10801. In addition, nothing in this section shall serve to negate assurances that have been given by the governor of Missouri to the U.S. Administration on Developmental Disabilities, Office of Human Development Services, Department of Health and Human Services concerning access to records by the agency designated as the protection and advocacy system for the state of Missouri. However, such information, once obtained by such entity or agency, shall be governed in accordance with the provisions of this subsection.

4. Anyone who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil liability for making such a report or for testifying unless such person acted in bad faith or with malicious purpose.

5. Within five working days after a report required to be made pursuant to this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

6. No person who directs or exercises any authority in a residential facility, day program or specialized service shall evict, harass, dismiss or retaliate against a patient, resident or client or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the facility which he or she has reasonable cause to believe has been committed or has occurred.

7. Any person who is discharged as a result of an administrative substantiation of allegations contained in a report of abuse or neglect may, after exhausting administrative remedies as provided in chapter 36, appeal such decision to the circuit court of the county in which such person resides within ninety days of such final administrative decision. The court may accept an appeal up to twenty-four months after the party filing the appeal received notice of the department's determination, upon a showing that:

(1) Good cause exists for the untimely commencement of the request for the review;

(2) If the opportunity to appeal is not granted it will adversely affect the party's opportunity for employment; and

(3) There is no other adequate remedy at law.

630.183. OFFICERS MAY AUTHORIZE MEDICAL TREATMENT FOR PATIENT. — Subject to other provisions of this chapter, the head of a mental health or **[**mental retardation**] developmental disability** facility may authorize the medical and surgical treatment of a patient or resident under the following circumstances:

(1) Upon consent of a patient or resident who is competent;

(2) Upon consent of a parent or legal guardian of a patient or resident who is a minor or legally incapacitated;

(3) Pursuant to the provisions of chapter 431;

(4) Pursuant to an order of a court of competent jurisdiction.

630.192. LIMITATIONS ON RESEARCH ACTIVITIES IN MENTAL HEALTH FACILITIES AND PROGRAMS. — No biomedical or pharmacological research shall be conducted in any mental

health facility or mental health program in which people may be civilly detained pursuant to chapter 632 or in any public or private residential facilities or day programs operated, funded or licensed by the department for persons affected by **[**mental retardation**] intellectual disabilities**, developmental disabilities, mental illness, mental disorders or alcohol or drug abuse unless such research is intended to alleviate or prevent the disabling conditions or is reasonably expected to be of direct therapeutic benefit to the participants. Without a specific court order, no involuntary patient shall consent to participate in any biomedical or pharmacological research. The application for the order shall be filed in the court having probate jurisdiction in the county in which the mental health facility is located, provided, however, that if the patient requests that the hearing be held by the court which has committed the patient, or if the court having probate jurisdiction deems it appropriate, the hearing on the application shall be transferred to the committing court.

630.210. CHARGES FOR PAY PATIENTS — EACH FACILITY CONSIDERED A SEPARATE UNIT — DIRECTOR TO DETERMINE RULES FOR MEANS TEST AND DOMICILE VERIFICATION — FAILURE TO PAY, EFFECT — EXCEPTIONS, EMERGENCY TREATMENT FOR TRANSIENTS — WAIVER OF MEANS TEST FOR CERTAIN CHILDREN, WHEN. — 1. The director shall determine the maximum amount for services which shall be charged in each of the residential facilities, day programs or specialized services operated or funded by the department for full-time or part-time inpatient, resident or outpatient evaluation, care, treatment, habilitation, rehabilitation or other service rendered to persons affected by mental disorder, mental illness, **[**mental retardation,**] intellectual disability,** developmental disability**,** or drug or alcohol abuse. The maximum charge shall be related to the per capita inpatient cost or actual outpatient evaluation or other service costs of each facility, program or service, which may vary from one locality to another. The director shall promulgate rules setting forth a reasonable standard means test which shall be applied by all facilities, programs and services operated or funded by the department in determining the amount to be charged to persons receiving services. The department shall pay, out of funds appropriated to it for such purpose, all or part of the costs for the evaluation, care, treatment, habilitation, rehabilitation or room and board provided or arranged by the department for any patient, resident or client who is domiciled in Missouri and who is unable to pay fully for services.

2. The director shall apply the standard means test annually and may make application of the test upon his own initiative or upon request of an interested party whenever evidence is offered tending to show that the current support status of any patient, resident or client is no longer proper. Any change of support status shall be retroactive to the date of application or request for review. If the persons responsible to pay under section 630.205 or 552.080 refuse to cooperate in providing information necessary to properly apply the test or if retroactive benefits are paid on behalf of the patient, resident or client, the charges may be retroactive to a date prior to the date of application or request for review. The decision of the director in determining the amount to be charged for services to a patient, resident or client shall be final. Appeals from the determination may be taken to the circuit court of Cole County or the county where the person responsible for payment resides in the manner provided by chapter 536.

3. The department shall not pay for services provided to a patient, resident or client who is not domiciled in Missouri unless the state is fully reimbursed for the services; except that the department may pay for services provided to a transient person for up to thirty days pending verification of his domiciliary state, and for services provided for up to thirty days in an emergency situation. The director shall promulgate rules for determination of the domiciliary state of any patient, resident or client receiving services from a facility, program or service operated or funded by the department.

4. Whenever a patient, resident or client is receiving services from a residential facility, day program or specialized service operated or funded by the department, and the state, county, municipality, parent, guardian or other person responsible for support of the patient, resident or

client fails to pay any installment required to be paid for support, the department or the residential facility, day program or specialized service may discharge the patient, resident or client as provided by chapter 31. The patient, resident or client shall not be discharged under this subsection until the final disposition of any appeal filed under subsection 2 of this section.

5. The standard means test may be waived for a child in need of mental health services to avoid inappropriate custody transfers to the children's division. The department of mental health shall notify the child's parent or custodian that the standard means test may be waived. The department of mental health shall promulgate rules for waiving the standard means test. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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.

630.335. CANTEENS AND COMMISSARIES AUTHORIZED — OPERATION. — 1. With the approval of the director, the head of any of the department's mental health or **[**mental retardation**] developmental disability** facilities or regional centers may establish and operate a canteen or commissary for the use and benefit of patients, residents and employees.

2. Each facility or center shall keep revenues received from the canteen or commissary established and operated by the head of the facility in a separate account. The acquisition cost of goods sold and other expenses shall be paid from this account. A minimum amount of money necessary to meet cash flow needs and current operating expenses may be kept in this account. The remaining funds from sales of each commissary or canteen shall be deposited monthly in the state treasury to the credit of the mental health trust fund. The money in the fund shall be expended, upon appropriation, for the benefit of the patients in the improvement of the recreation, habilitation or treatment services or equipment of the facility or center from which derived. The provisions of section 33.080 to the contrary notwithstanding, the money in the mental health trust fund shall be retained for the purposes specified in this section and shall not revert or be transferred to general revenue. The department of mental health shall keep accurate records of the source of money deposited in the mental health trust fund and shall allocate appropriations from the fund to the appropriate institution, facility or center.

630.405. PURCHASE OF SERVICES, PROCEDURE — COMMISSIONER OF ADMINISTRATION TO COOPERATE — RULES, PROCEDURE. — 1. The department may purchase services for patients, residents or clients from private and public vendors in this state with funds appropriated for this purpose.

2. Services that may be purchased may include prevention, diagnosis, evaluation, treatment, habilitation, rehabilitation, transportation and other special services for persons affected by mental disorders, mental illness, **[**mental retardation,**] intellectual disabilities,** developmental disabilities or alcohol or drug abuse.

3. The commissioner of administration, in consultation with the director, shall promulgate rules establishing procedures consistent with the usual state purchasing procedures pursuant to chapter 34 for the purchase of services pursuant to this section. The commissioner may authorize the department to purchase any technical service which, in his judgment, can best be purchased direct pursuant to chapter 34. The commissioner shall cooperate with the department to purchase timely services appropriate to the needs of the patients, residents or clients of the department.

4. The commissioner of administration may promulgate rules authorizing the department to review, suspend, terminate, or otherwise take remedial measures with respect to contracts with

vendors as defined in subsection 1 of this section that fail to comply with the requirements of section 210.906.

5. The commissioner of administration may promulgate rules for a waiver of chapter 34 bidding procedures for the purchase of services for patients, residents and clients with funds appropriated for that purpose if, in the commissioner's judgment, such services can best be purchased directly by the department.

6. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

630.425. INCENTIVE GRANTS AUTHORIZED — RULES AND REGULATIONS — DURATION OF GRANTS. — 1. The department may make incentive grants from funds specifically appropriated for this purpose to private and public entities seeking to establish a residential facility, day program or specialized service for persons affected by mental disorders, mental illness, **[**mental retardation,**] intellectual disabilities,** developmental disabilities or alcohol or drug abuse in unserved, underserved or inappropriately served areas of the state.

2. The department shall promulgate rules establishing procedures for monitoring and auditing such grants.

3. The grants shall be of limited duration of one year and renewable for only one additional year if the funds are appropriated for this purpose.

630.510. INVENTORY OF FACILITIES — PLAN FOR NEW FACILITIES. — At least once every three years, the department shall conduct a complete statewide inventory of its existing facilities and a survey of needs for persons affected by mental disorders, mental illness, **[**mental retardation,**] intellectual disabilities,** developmental disabilities and alcohol or drug abuse, and shall make a public report of its inventory and survey and recommend a state plan for the construction of additional facilities.

630.605. PLACEMENT PROGRAMS TO BE MAINTAINED. — The department shall establish a placement program for persons affected by a mental disorder, mental illness, **[**mental retardation,**] intellectual disability,** developmental disability or alcohol or drug abuse. The department may utilize residential facilities, day programs and specialized services which are designed to maintain a person who is accepted in the placement program in the least restrictive environment in accordance with the person's individualized treatment, habilitation or rehabilitation plan. The department shall license, certify and fund, subject to appropriations, a continuum of facilities, programs and services short of admission to a department facility to accomplish this purpose.

630.610. APPLICATIONS FOR PLACEMENT — CRITERIA TO BE CONSIDERED. — 1. If the head of a facility operated by the department determines that placement out of the facility would be appropriate for any patient or resident, the head of the facility shall refer the patient or resident for placement according to the department's rules. If a patient or resident is accepted and placed under this chapter, then the patient or resident shall be considered as discharged as a patient or resident of the facility and reclassified as a client of the department.

2. Any person, his authorized representative, his parent, if the person is a minor, his guardian, a court of competent jurisdiction or a state or private facility or agency having custody of the person may apply for placement of the person under this chapter.

3. If the department finds the application to be appropriate after review, it shall provide for or arrange for a comprehensive evaluation, and the preparation of an individualized treatment, habilitation or rehabilitation plan of the person seeking to be placed, whether from a department facility or directly, to determine if he meets the following criteria:

(1) The person is affected by a mental disorder, mental illness, **[**mental retardation,**] intellectual disability,** developmental disability or alcohol or drug abuse; and

(2) The person is in need of special care, treatment, habilitation or rehabilitation services as described in this chapter, including room or board, or both; provided, however, that no person shall be accepted for placement if the sole reason for the application or referral is that residential placement is necessary for a school-aged child, as defined in chapter 162, to receive an appropriate special education.

630.635. PROCEDURE WHEN CONSENT NOT GIVEN — REVIEW PANEL TO BE NAMED — NOTICE AND HEARING REQUIRED — APPEAL — EMERGENCY TRANSFERS MAY BE MADE. — 1. If a resident in a **[**mental retardation**] developmental disability** facility, or his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement, the head of the **[**mental retardation**] developmental disability** facility may petition, under the procedures in section 633.135, the director of the division of **[**mental retardation and**]** developmental disabilities to determine whether the proposed placement is appropriate under chapter 633.

2. If a patient in a mental health facility, or his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement, the head of the mental health facility may petition the director of the division of comprehensive psychiatric services to determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620.

3. The director of the division of comprehensive psychiatric services shall refer the petition to the chairman of the state advisory council for his division who shall appoint and convene a review panel composed of three members. At least one member of the panel shall be a family member or guardian of a patient who resides in a mental health facility operated by the department. The remaining members of the panel shall be persons who are from nongovernmental organizations or groups concerned with the prevention of mental disorders, evaluation, care, treatment or rehabilitation of persons affected by the same conditions as the patient the department seeks to place and who are familiar with services and service needs of persons in mental health facilities operated by the department. No member of the panel shall be an officer or employee of the department.

4. After prompt notice and hearing, the panel shall determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620. The hearing shall be electronically recorded for purposes of obtaining a transcript. The council shall forward the tape recording, recommended findings of fact, conclusions of law, and decision to the director who shall enter findings of fact, conclusions of law, and the final decision. Notice of the director's decision shall be sent to the patient, or his parent if he is a minor, or his guardian by registered mail, return receipt requested. The director shall expedite this review in all respects.

5. If the patient, or his parent if he is a minor, or his guardian disagrees with the decision of the director, he may appeal the decision, within thirty days after notice of the decision is sent, to the circuit court of the county where the patient or resident, or his parent if he is a minor, or his guardian resides. The court shall review the record, proceedings and decision of the director not only under the provisions of chapter 536, but also as to whether or not the head of the facility or the department sustained its burden of proof that the proposed placement is appropriate under sections 630.110, 630.115 and 630.120. The court shall expedite this review in all respects. Notwithstanding the provisions of section 536.140, a court may, for good cause shown, hear and consider additional competent and material evidence.

6. The notice and procedure for the hearing by the panel shall be in accordance with chapter 536.

7. In all proceedings either before the panel or before the circuit court, the burden of proof shall be upon the head of the facility to demonstrate by a preponderance of evidence that the proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615 and 630.120.

8. Pending the convening of the hearing panel and the final decision of the director or the court if the director's decision is appealed, the department shall not place or discharge the patient

from a facility except that the department may temporarily transfer such patient in the case of a medical emergency.

9. There shall be no retaliation against any state employee as the result of a good faith decision to place the patient which is appealed and who testifies during a hearing or otherwise provides information or evidence in regard to a proposed placement.

630.705. RULES FOR STANDARDS FOR FACILITIES AND PROGRAMS FOR PERSONS AFFECTED BY MENTAL DISORDER, MENTAL ILLNESS, OR DEVELOPMENTAL DISABILITY — CLASSIFICATION OF FACILITIES AND PROGRAMS — CERTAIN FACILITIES AND PROGRAMS NOT TO BE LICENSED. — 1. The department shall promulgate rules setting forth reasonable standards for residential facilities and day programs for persons who are affected by a mental disorder, mental illness, **[**mental retardation**] intellectual disability,** or developmental disability.

2. The rules shall provide for the facilities and programs to be reasonably classified as to resident or client population, size, type of services or other reasonable classification. The department shall design the rules to promote and regulate safe, humane and adequate facilities and programs for the care, treatment, habilitation and rehabilitation of persons described in subsection 1 of this section.

3. The following residential facilities and day programs shall not be licensed by the department:

(1) Any facility or program which relies solely upon the use of prayer or spiritual healing;

(2) Any educational, special educational or vocational program operated, certified or approved by the state board of education pursuant to chapters 161, 162 and 178, and regulations promulgated by the board;

(3) Any hospital, facility, program or entity operated by this state or the United States; except that facilities operated by the department shall meet these standards;

(4) Any hospital, facility or other entity, excluding those with persons who are mentally retarded and developmentally disabled as defined in section 630.005 otherwise licensed by the state and operating under such license and within the limits of such license, unless the majority of the persons served receive activities and services normally provided by a licensed facility pursuant to this chapter;

(5) Any hospital licensed by the department of social services as a psychiatric hospital pursuant to chapter 197;

(6) Any facility or program accredited by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, Accreditation Council for Services for Mentally Retarded or other Developmentally Disabled Persons, Council on Accreditation of Services for Children and Families, Inc., or the Commission on Accreditation of Rehabilitation Facilities;

(7) Any facility or program caring for less than four persons whose care is not funded by the department.

630.715. LICENSING OF RESIDENTIAL FACILITIES AND DAY PROGRAMS — FEE — AFFIDAVIT. — 1. The department shall establish a procedure for the licensing of residential facilities and day programs for persons described in section 630.705, which procedure shall provide for the acceptance of a license, a temporary operating permit or a probationary license issued by the department of social services under sections 198.006 to 198.096 as regards the licensing requirements in the following areas:

(1) General medical and health care;

(2) Adequate physical plant facilities including fire safety, housekeeping and maintenance standards;

(3) Food service facilities;

(4) Safety precautions;

(5) Drugs and medications;

(6) Uniform system of record keeping;
(7) Resident and client rights and grievance procedures.

However, the department shall require annually that any facilities and programs already licensed by the department of social services under chapter 198 which desire to provide services to persons diagnosed **[**as mentally disordered, mentally ill, mentally retarded or developmentally disabled**] with a mental disorder, mental illness, or developmental disability** in accordance with sections 630.705 to 630.760 meet the department's requirements in excess of those required for licensure or certification under chapter 198, which are appropriate to admission criteria and care, treatment, habilitation and rehabilitation needs of such persons.

2. Applications for licenses shall be made to the department upon forms provided by it and shall contain such information and documents as the department requires, including, but not limited to, affirmative evidence of ability to comply with the rules adopted by the department. Each application for a license, except applications from a governmental unit or a facility caring for less than four persons, which shall not pay any fee, shall be accompanied by a license fee of ten dollars for establishments which accept more than three but less than ten persons and fifty dollars from establishments which accept ten or more. The license fee shall be paid to the director of revenue for deposit to the general revenue fund of the state treasury.

3. An applicant for a license shall submit an affidavit under oath that all documents required by the department to be filed pursuant to this section are true and correct to the best of his knowledge and belief, that the statements contained in the application are true and correct to the best of his knowledge and belief and that all required documents are either included with the application or are currently on file with the department.

630.735. LICENSE REQUIRED. — 1. No person or governmental unit, acting separately or jointly with any other person or governmental unit, shall establish, conduct or maintain any residential facility in this state for the care, treatment, habilitation or rehabilitation of **[**mentally retarded or developmentally disabled**]** persons **with an intellectual disability or a developmental disability** without a valid license issued by the department. Licenses in effect on August 13, 1982, shall continue in effect until they regularly expire unless sooner revoked; except that in no case shall a license continue in effect beyond one year after August 13, 1982.

2. After October 1, 1983, no person or governmental unit, acting separately or jointly with any other person or governmental unit, shall establish, conduct or maintain any residential facility or day program in this state for care, treatment, habilitation or rehabilitation of persons diagnosed **[**as mentally disordered or mentally ill**] with a mental disorder or mental illness** or day program for **[**mentally retarded or developmentally disabled**]** persons **with an intellectual disability or a developmental disability** unless the facilities or programs are licensed by the department.

632.005. DEFINITIONS. — As used in chapter 631 and this chapter, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Comprehensive psychiatric services", any one, or any combination of two or more, of the following services to persons affected by mental disorders other than **[**mental retardation or**] intellectual disabilities** or developmental disabilities: inpatient, outpatient, day program or other partial hospitalization, emergency, diagnostic, treatment, liaison, follow-up, consultation, education, rehabilitation, prevention, screening, transitional living, medical prevention and treatment for alcohol abuse, and medical prevention and treatment for drug abuse;

(2) "Council", the Missouri advisory council for comprehensive psychiatric services;

(3) "Court", the court which has jurisdiction over the respondent or patient;

(4) "Division", the division of comprehensive psychiatric services of the department of mental health;

(5) "Division director", director of the division of comprehensive psychiatric services of the department of mental health, or his designee;

(6) "Head of mental health facility", superintendent or other chief administrative officer of a mental health facility, or his designee;

(7) "Judicial day", any Monday, Tuesday, Wednesday, Thursday or Friday when the court is open for business, but excluding Saturdays, Sundays and legal holidays;

(8) "Licensed physician", a physician licensed pursuant to the provisions of chapter 334 or a person authorized to practice medicine in this state pursuant to the provisions of section 334.150;

(9) "Licensed professional counselor", a person licensed as a professional counselor under chapter 337 and with a minimum of one year training or experience in providing psychiatric care, treatment, or services in a psychiatric setting to individuals suffering from a mental disorder;

(10) "Likelihood of serious harm" means any one or more of the following but does not require actual physical injury to have occurred:

(a) A substantial risk that serious physical harm will be inflicted by a person upon his own person, as evidenced by recent threats, including verbal threats, or attempts to commit suicide or inflict physical harm on himself. Evidence of substantial risk may also include information about patterns of behavior that historically have resulted in serious harm previously being inflicted by a person upon himself;

(b) A substantial risk that serious physical harm to a person will result or is occurring because of an impairment in his capacity to make decisions with respect to his hospitalization and need for treatment as evidenced by his current mental disorder or mental illness which results in an inability to provide for his own basic necessities of food, clothing, shelter, safety or medical care or his inability to provide for his own mental health care which may result in a substantial risk of serious physical harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in serious harm to the person previously taking place because of a mental disorder or mental illness which resulted in his inability to provide for his basic necessities of food, clothing, shelter, safety or medical or mental health care; or

(c) A substantial risk that serious physical harm will be inflicted by a person upon another as evidenced by recent overt acts, behavior or threats, including verbal threats, which have caused such harm or which would place a reasonable person in reasonable fear of sustaining such harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in physical harm previously being inflicted by a person upon another person;

(11) "Mental health coordinator", a mental health professional who has knowledge of the laws relating to hospital admissions and civil commitment and who is authorized by the director of the department, or his designee, to serve a designated geographic area or mental health facility and who has the powers, duties and responsibilities provided in this chapter;

(12) "Mental health facility", any residential facility, public or private, or any public or private hospital, which can provide evaluation, treatment and, inpatient care to persons suffering from a mental disorder or mental illness and which is recognized as such by the department or any outpatient treatment program certified by the department of mental health. No correctional institution or facility, jail, regional center or **[**mental retardation**] developmental disability** facility shall be a mental health facility within the meaning of this chapter;

(13) "Mental health professional", a psychiatrist, resident in psychiatry, psychologist, psychiatric nurse, licensed professional counselor, or psychiatric social worker;

(14) "Mental health program", any public or private residential facility, public or private hospital, public or private specialized service or public or private day program that can provide care, treatment, rehabilitation or services, either through its own staff or through contracted providers, in an inpatient or outpatient setting to persons with a mental disorder or mental illness or with a diagnosis of alcohol abuse or drug abuse which is recognized as such by the

department. No correctional institution or facility or jail may be a mental health program within the meaning of this chapter;

(15) "Ninety-six hours" shall be construed and computed to exclude Saturdays, Sundays and legal holidays which are observed either by the court or by the mental health facility where the respondent is detained;

(16) "Peace officer", a sheriff, deputy sheriff, county or municipal police officer or highway patrolman;

(17) "Psychiatric nurse", a registered professional nurse who is licensed under chapter 335 and who has had at least two years of experience as a registered professional nurse in providing psychiatric nursing treatment to individuals suffering from mental disorders;

(18) "Psychiatric social worker", a person with a master's or further advanced degree from an accredited school of social work, practicing pursuant to chapter 337, and with a minimum of one year training or experience in providing psychiatric care, treatment or services in a psychiatric setting to individuals suffering from a mental disorder;

(19) "Psychiatrist", a licensed physician who in addition has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

(20) "Psychologist", a person licensed to practice psychology under chapter 337 with a minimum of one year training or experience in providing treatment or services to mentally disordered or mentally ill individuals;

(21) "Resident in psychiatry", a licensed physician who is in a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

(22) "Respondent", an individual against whom involuntary civil detention proceedings are instituted pursuant to this chapter;

(23) "Treatment", any effort to accomplish a significant change in the mental or emotional conditions or the behavior of the patient consistent with generally recognized principles or standards in the mental health professions.

632.105. ADULTS TO BE ACCEPTED FOR EVALUATION, WHEN, BY WHOM — MAY THEN BE ADMITTED TO MENTAL HEALTH FACILITY — CONSENT REQUIRED. — 1. The head of a private mental health facility may, and the head of a department mental health facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation, on an outpatient basis if practicable, any person eighteen years of age or over who applies for his admission. The department may require that a community-based service where the person resides perform the evaluation pursuant to an affiliation agreement and contract with the department.

2. If a person is diagnosed as having a mental disorder, other than **[**mental retardation**] an intellectual disability** or developmental disability without another accompanying mental disorder, and is determined to be in need of inpatient treatment, the person may be admitted by a private mental health facility and shall be admitted by a department mental health facility, if suitable accommodations are available, for care and treatment as an inpatient for such periods and under such conditions as authorized by law. The department may require that a community-based service where the patient resides admit the person for inpatient care and treatment pursuant to an affiliation agreement and contract with the department.

3. A person who is admitted under this section is a voluntary patient and shall have the right to consent to evaluation, care, treatment and rehabilitation and shall not be medicated without his prior voluntary and informed consent; except that medication may be given in emergency situations.

632.110. MINORS TO BE ACCEPTED FOR EVALUATION, WHEN, BY WHOM — MAY THEN BE ADMITTED TO MENTAL HEALTH FACILITY — PARENT OR GUARDIAN TO CONSENT —

PEACE OFFICER MAY TRANSPORT TO FACILITY, WHEN. — 1. The head of a private mental health facility may, and the head of a department mental health facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation, on an outpatient basis if practicable, any minor for whom an application for voluntary admission is made by his parent or other legal custodian. The department may require that a community-based service where the minor resides perform the evaluation pursuant to an affiliation agreement or contract with the department.

2. If the minor is diagnosed as having a mental disorder, other than **[**mental retardation**] an intellectual disability** or developmental disability without another accompanying mental disorder, and found suitable for inpatient treatment as a result of the evaluation, the minor may be admitted by a private mental health facility or shall be admitted by a department mental health facility, if suitable accommodations are available, for care, treatment and rehabilitation as an inpatient for such periods and under such conditions as authorized by law. The department may require that a community-based service where the patient resides admit the person for inpatient care, treatment and rehabilitation pursuant to an affiliation agreement and contract with the department.

3. The parent or legal custodian who applied for the admission of the minor shall have the right to authorize his evaluation, care, treatment and rehabilitation and the right to refuse permission to medicate the minor; except that medication may be given in emergency situations.

4. The parent or legal custodian may request a peace officer to take a minor into custody and transport him to the mental health facility for evaluation if the parent or legal custodian applies for such evaluation under subsection 1 of this section.

632.115. JUVENILES TO BE ADMITTED BY HEADS OF FACILITIES WHEN COMMITTED. — The head of a private mental health facility may, and the head of a public mental health facility shall, except in the case of medical emergency and subject to the availability of suitable programs and accommodations, admit any minor who has symptoms of mental disorder other than **[**mental retardation**] an intellectual disability** or developmental disability, who is under the jurisdiction of a juvenile court and who is committed to a facility not operated by the state of Missouri under section 211.181 or to the custody of the director pursuant to sections 211.201 to 211.207 for assignment by the director to an appropriate facility.

632.120. INCOMPETENTS TO BE ACCEPTED BY HEADS OF FACILITIES UPON APPLICATION — DURATION OF ADMISSION FOR EVALUATION — CONSENT MAY BE AUTHORIZED. — 1. The head of a private mental health facility may, and the head of a department facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation and treatment, on an outpatient basis if practicable, any person who has been declared incapacitated by a court of competent jurisdiction and for whom an application for voluntary admission is made by his guardian. The department may require that a community-based service where the person resides perform the evaluation pursuant to an affiliation agreement and contract with the department.

2. If the person is diagnosed as having a mental disorder, other than **[**mental retardation or**]** developmental disability without another accompanying mental disorder, and the person is found suitable for inpatient treatment as a result of the evaluation, the person may be admitted by a private mental health facility or shall be admitted by a public mental health facility, if suitable accommodations are available, for care, treatment and rehabilitation as an inpatient for up to thirty days after admission for evaluation and treatment.

3. If further inpatient services are recommended, the person may remain in the facility only if his guardian is authorized by the court to continue the inpatient hospitalization. The court may authorize the guardian to consent to evaluation, care, treatment, including medication, and rehabilitation on an inpatient basis.

632.370. TRANSFER OF PATIENT BY DEPARTMENT — HEARING ON TRANSFER OF MINOR TO ADULT WARD — CONSENT REQUIRED — NOTICE TO BE GIVEN — CONSIDERATIONS — TRANSFER TO FEDERAL FACILITY, NOTICE, RESTRICTIONS. — 1. The department may transfer, or authorize the transfer of, an involuntary patient detained under this chapter, chapter 211, chapter 475, or chapter 552 from one mental health program to another if the department determines that it would be consistent with the medical needs of the patient to do so. If a minor is transferred from a ward for minors to an adult ward, the department shall conduct a due process hearing within six days of such transfer during which hearing the head of the program shall have the burden to show that the transfer is appropriate for the medical needs of the minor. Whenever a patient is transferred, written notice thereof shall be given after obtaining the consent of the patient, his parent if he is a minor or his legal guardian to his legal guardian, parents and spouse, or, if none be known, his nearest known relative or friend. In all such transfers, due consideration shall be given to the relationship of the patient to his family, legal guardian or friends, so as to maintain relationships and encourage visits beneficial to the patient. The head of the mental health program shall notify the court ordering detention or commitment, the patient's last known attorney of record and the mental health coordinator for the region, and if the person was committed pursuant to chapter 552, to the prosecuting attorney of the jurisdiction where the person was tried and acquitted, of any transfer from one mental health facility to another. The prosecutor of the jurisdiction where the person was tried and acquitted shall use their best efforts to notify the victims of dangerous felonies. Notification by the appropriate person or agency by certified mail to the most current address provided by the victim shall constitute compliance with the victim notification requirement of this section. In the case of a patient committed under chapter 211, the court, on its own motion, may hold a hearing on the transfer to determine whether such transfer is appropriate to the medical needs of the patient.

2. Upon receipt of a certificate of an agency of the United States that facilities are available for the care or treatment of any individual heretofore ordered involuntarily detained, treated and evaluated pursuant to this chapter in any facility for the care or treatment of **[**the mentally ill, mentally retarded or developmentally disabled**] persons with a mental illness or an intellectual disability or a developmental disability** and that such individual is eligible for care or treatment in a hospital or institution of such agency, the department may cause his transfer to such agency of the United States for hospitalization. Upon effecting any such transfer, the court ordering hospitalization, the legal guardian, spouse and parents, or, if none be known, his nearest known relative or friend shall be notified thereof immediately by the department. No person shall be transferred to an agency of the United States if he is confined pursuant to a conviction for any felony or misdemeanor or if he has been acquitted of any felony or misdemeanor solely on the ground of mental illness, unless prior to transfer the court originally ordering confinement of such person enters an order for the transfer after appropriate motion and hearing. Any person transferred to an agency of the United States shall be deemed to be hospitalized by such agency pursuant to the original order of hospitalization.

632.380. PROVISIONS OF CHAPTER NOT TO APPLY TO CERTAIN PERSONS. — Persons **[**who are mentally retarded, developmentally disabled,**] with an intellectual disability or a developmental disability or who are** senile or impaired by alcoholism or drug abuse shall not be detained judicially under this chapter, unless they are also mentally ill and as a result present likelihood of serious harm to themselves or to others. Such persons may, however, be committed upon court order under this chapter and the provisions of chapter 475 relating to incapacitated persons, pursuant to chapter 211 relating to juveniles, or may be admitted as voluntary patients under section 632.105 or 632.120.

633.005. DEFINITIONS. — As used in this chapter, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Comprehensive evaluation", a study, including a sequence of observations and examinations, of an individual leading to conclusions and recommendations formulated jointly by an interdisciplinary team of persons with special training and experience in the diagnosis and habilitation of **[**the mentally retarded and developmentally disabled**] a person with an intellectual disability or a developmental disability**;

(2) "Division", the division of **[**mental retardation and**]** developmental disabilities of the department of mental health;

(3) "Division director", the director of the division of **[**mental retardation and**]** developmental disabilities of the department of mental health, or his designee;

(4) "Group home", a residential facility serving nine or fewer residents, similar in appearance to a single-family dwelling and providing basic health supervision, habilitation training in skills of daily and independent living and community integration, and social support. Group homes do not include a family living arrangement or individualized supported living;

(5) "**[**Mental retardation**] Developmental disability** facility", a private or department facility, other than a regional center, which admits persons **[**who are mentally retarded or developmentally disabled**] with an intellectual disability or a developmental disability** for residential habilitation and other services and which is qualified or licensed as such by the department pursuant to chapter 630. Such terms shall include, but shall not be limited to, habilitation centers and private or public residential facilities for persons **[**who are developmentally disabled**] with an intellectual disability or a developmental disability**;

(6) "Regional center", an entity so designated by the department to provide, directly or indirectly, for comprehensive **[**mental retardation and**]** developmental disability services under this chapter in a particular region;

(7) "Respite care", temporary and short-term residential care, sustenance and supervision of a **[**mentally retarded or developmentally disabled**]** person **with an intellectual disability or a developmental disability** who otherwise resides in a family home;

(8) "State advisory council", the Missouri **[**advisory council on mental retardation and**]** developmental disabilities **council** as created in section 633.020.

633.010. RESPONSIBILITIES, POWERS, FUNCTIONS AND DUTIES OF DIVISION. — 1. The division of **[**mental retardation and**]** developmental disabilities, created by the omnibus reorganization act of 1974, section 9, appendix B, RSMo, shall be a division of the department. The division shall have the responsibility of insuring that **[**mental retardation**] intellectual disabilities** and developmental disabilities prevention, evaluation, care, habilitation and rehabilitation services are accessible, wherever possible. The division shall have and exercise supervision of division residential facilities, day programs and other specialized services operated by the department, and oversight over facilities, programs and services funded or licensed by the department.

2. The powers, functions and duties of the division shall include the following:

(1) Provision of funds for the planning and implementation of accessible programs to serve persons affected by **[**mental retardation or**] intellectual disabilities and** developmental disabilities;

(2) Review of **[**mental retardation and**]** developmental disabilities plans submitted to receive state and federal funds allocated by the department;

(3) Provision of technical assistance and training to community-based programs to assist in the planning and implementation of quality services;

(4) Assurance of program quality in compliance with such appropriate standards as may be established by the department;

(5) Sponsorship and encouragement of research into the causes, effects, prevention, habilitation and rehabilitation of **[**mental retardation and**] intellectual disabilities and** developmental disabilities;

(6) Provision of public information relating to **[**mental retardation and**]** developmental disabilities and their habilitation;

(7) Cooperation with nonstate governmental agencies and the private sector in establishing, conducting, integrating and coordinating **[**mental retardation and**]** developmental disabilities programs and projects;

(8) Cooperation with other state agencies to encourage appropriate health facilities to serve, without discrimination, persons **[**who are mentally retarded or developmentally disabled**] with an intellectual disability or a developmental disability** who require medical care and to provide them with adequate and appropriate services;

(9) Participation in developing and implementing a statewide plan to alleviate problems relating to **[**mental retardation and**]** developmental disabilities and to overcome the barriers to their solutions;

(10) Encouragement of coordination of division services with other divisions of the department and other state agencies;

(11) Encouragement of the utilization, support, assistance and dedication of volunteers to assist persons affected by **[**mental retardation and**] intellectual disabilities or** developmental disabilities to be accepted and integrated into normal community activities;

(12) Evaluation, or the requirement of the evaluation, including the collection of appropriate necessary information, of **[**mental retardation or**]** developmental disabilities programs to determine their cost-and-benefit effectiveness;

(13) Participation in developing standards for residential facilities, day programs and specialized services operated, funded or licensed by the department for persons affected by **[**mental retardation or**]** developmental disabilities.

633.020. ADVISORY COUNCIL ON DEVELOPMENTAL DISABILITIES — MEMBERS, NUMBER, TERMS, QUALIFICATIONS, APPOINTMENT — ORGANIZATION, MEETINGS — DUTIES. — 1. The "Missouri **[**Advisory Council on Mental Retardation and**]** Developmental Disabilities **Council**", consisting of up to twenty-five members, the number to be determined under the council bylaws, is hereby created to advise the division and the division director.

2. The members of the Missouri planning council for developmental disabilities, created by executive order of the governor on October 26, 1979, for the remainder of their appointed terms, and up to five persons to be appointed by the director, for staggered terms of three years each, shall act as such advisory body. At the expiration of the term of each member, the director shall appoint an individual who shall hold office for a term of three years. At least one-half of the members shall be consumers. Other members shall have professional, research or personal interest in **[**mental retardation**] intellectual disabilities** and developmental disabilities. At least one member shall be a manager of or a member of the board of directors of a sheltered workshop as defined in section 178.900. No more than one-fourth of the members shall be vendors or members of boards of directors, employees or officers of vendors, or any of their spouses, if such vendors receive more than fifteen hundred dollars under contract with the department; except that members of boards of directors of not-for-profit corporations shall not be considered members of board of directors of vendors under this subsection.

3. Meetings shall be held at least every ninety days or at the call of the division director or the council chairman, who shall be elected by the council.

4. Each member shall be reimbursed for reasonable and necessary expenses, including travel expenses, pursuant to department travel regulations, actually incurred in the performance of his official duties.

5. The council may be divided into subcouncils in accordance with its bylaws.

6. The council shall collaborate with the department in developing and administering a state plan for **[**mental retardation and**] intellectual disabilities and** developmental disabilities services.

7. No member of a state advisory council may participate in or seek to influence a decision or vote of the council if the member would be directly involved with the matter or if he would

derive income from it. A violation of the prohibition contained herein shall be grounds for a person to be removed as a member of the council by the director.

8. The council shall be advisory and shall:

(1) Promote meetings and programs for the discussion of reducing the debilitating effects of **[**mental retardation and**] intellectual disabilities and** developmental disabilities and disseminate information in cooperation with any other department, agency or entity on the prevention, evaluation, care, treatment and habilitation for persons affected by **[**mental retardation or**] intellectual disabilities and** developmental disabilities;

(2) Study and review current prevention, evaluation, care, treatment and rehabilitation technologies and recommend appropriate preparation, training, retraining and distribution of manpower and resources in the provision of services to **[**mentally retarded or developmentally disabled**]** persons **with an intellectual disability or a developmental disability** through private and public residential facilities, day programs and other specialized services;

(3) Recommend what specific methods, means and procedures should be adopted to improve and upgrade the department's **[**mental retardation and**] intellectual disabilities and** developmental disabilities service delivery system for citizens of this state;

(4) Participate in developing and disseminating criteria and standards to qualify mental retardation or developmental disability residential facilities, day programs and other specialized services in this state for funding or licensing, or both, by the department.

633.029. DEFINITION TO DETERMINE STATUS OF ELIGIBILITY. — All persons determined eligible for services provided by the division of **[**mental retardation and**]** developmental disabilities prior to January 1, 1991, shall be eligible for services on the basis of their earlier determination of eligibility without regard to their eligibility status under the definition of developmental disability contained in section 630.005.

633.030. DEPARTMENT TO DEVELOP STATE PLAN, CONTENTS. — 1. The department shall prepare a state plan to secure coordinated **[**mental retardation and**] intellectual disabilities and** developmental disabilities habilitation services accessible to persons in need of them in defined geographic areas, which plan shall be reviewed and revised annually.

2. The state plan shall include, but not be limited to, the following:

(1) A needs-assessment of the state to determine underserved, unserved and inappropriately served populations and areas;

(2) Statements of short-term and long-term goals for meeting the needs of currently served, underserved, unserved or inappropriately served populations and areas of the state;

(3) An inventory of existing private and public residential facilities, day programs and other service providers offering **[**mental retardation or**] intellectual disability or** developmental disability evaluation and habilitation services;

(4) Evaluations of the effects of habilitation programs;

(5) Descriptions of the following:

(a) Methods for assuring active consumer-oriented citizen participation throughout the system;

(b) Strategies and procedures for encouraging, coordinating and integrating community-based services, wherever practicable, to avoid duplication by private, not-for-profit and public state and community-based providers of services;

(c) Methods for monitoring the quality of evaluation and habilitation services funded by the state;

(d) Rules which set standards for construction, staffing, operations and programs, as appropriate, for any public or private entity to meet for receiving state licensing, certification or funding; and

(e) Plans for addressing the particular **[**mental retardation and**] intellectual disability or** developmental disability service needs of each region, including special strategies for rural and urban unserved, underserved or inappropriately served populations in areas of the state.

3. In preparing the state plan, the department shall take into consideration its regional plans.

633.045. DUTIES OF REGIONAL ADVISORY COUNCILS — PLANS. — 1. Any regional advisory councils established under section 633.040 shall participate in the preparation of regional plans and annually review, advise on and recommend them before they are transmitted to the state advisory council and the division director. The plans shall include at least the following:

(1) An inventory of existing residential facilities, day programs and specialized services for **[**the mentally retarded and developmentally disabled**] persons with an intellectual disability or a developmental disability**;

(2) An assessment of needs, including any special target populations, of unserved, underserved or inappropriately served persons;

(3) A statement of specific goals for the region.

2. Any staff of such regional advisory councils shall be provided only from funds appropriated specifically for that purpose. This subsection shall become effective July 1, 1981.

633.050. REGIONAL COUNCILS TO REVIEW, ADVISE AND RECOMMEND — DUTIES. — 1. In addition to such other advisory functions as may be agreed upon with the division, the regional advisory councils shall review and advise on programs and policies of the regional centers. The councils shall review, advise on, and recommend regional program budgets and shall report to the division director their findings as to their conformity with the regional plans before they are transmitted to the department to be considered for inclusion in the department budget request.

2. The regional councils may advise the department, the division and the regional centers on methods of operation and service delivery which will assure comprehensive services with the minimum amount of duplication, fragmentation and unnecessary expenditures. In making such proposals, the councils shall consider the most appropriate use of existing agencies and professional personnel providing residential facilities, day programs and other specialized services for **[**the mentally retarded and developmentally disabled**] persons with an intellectual disability or developmental disability** in their regions.

3. The duties of the regional advisory councils shall include:

(1) Determining the disbursement of the cash stipend as established in section 633.180 and the family support loan as established in section 633.185;

(2) Providing direction and assistance to the regional center in the development of a family support plan based upon the needs in the region;

(3) Approval of the regional family support plan;

(4) Monitoring the implementation of the family support plan;

(5) Providing an annual written report to the department of mental health regarding the activities of the family support council.

633.110. WHAT SERVICES MAY BE PROVIDED — CONSENT REQUIRED, WHEN. — 1. Any person suspected to **[**be mentally retarded or developmentally disabled**] have an intellectual disability or developmental disability** shall be eligible for initial diagnostic and counseling services through the regional centers.

2. If it is determined by a regional center through a comprehensive evaluation that a person **[**is mentally retarded or developmentally disabled**] has an intellectual disability or a developmental disability** so as to require the provision of services, and if such person, such person's parent, if the person is a minor, or legal guardian, requests that he be registered as a client of a regional center, the regional center shall, within the limits of available resources,

secure a comprehensive program of any necessary services for such person. Such services may include, but need not be limited to, the following:

(1) Diagnosis and evaluation;
(2) Counseling;
(3) Respite care;
(4) Recreation;
(5) Habilitation;
(6) Training;
(7) Vocational habilitation;
(8) Residential care;
(9) Homemaker services;
(10) Developmental day care;
(11) Sheltered workshops;
(12) Referral to appropriate services;
(13) Placement;
(14) Transportation.

3. In securing the comprehensive program of services, the regional centers shall involve the client, his family or his legal guardian in decisions affecting his care, habilitation, placement or referral. Nothing in this chapter shall be construed as authorizing the care, treatment, habilitation, referral or placement of any **[**mentally retarded or developmentally disabled**]** person **with an intellectual disability or developmental disability** to any residential facility, day program or other specialized service without the written consent of the client, his parent, if he is a minor, or his legal guardian, unless such care, treatment, habilitation, referral, or placement is authorized pursuant to an order of the court under the provisions of chapter 475.

633.115. ENTITIES TO BE USED BY REGIONAL CENTERS. — The regional center shall secure services for its clients in the least restrictive environment consistent with individualized habilitation plans. As a result of its comprehensive evaluation, the regional center shall utilize the following entities to secure services:

(1) Agencies serving persons not diagnosed **[**as mentally retarded or developmentally disabled**] with an intellectual disability or developmental disability** in which the client would be eligible to receive available services or in which the services could be made available to the client through the purchase of assistive or supportive services;

(2) Agencies serving **[**mentally retarded or developmentally disabled**]** persons **with an intellectual disability or developmental disability** in which the client would be eligible to receive available services or in which services could be made available to the client through the purchase of assistive or supportive services;

(3) The regional center on a day-program basis;

(4) The regional center for short-term residential services, not to exceed six months, unless expressly authorized for a longer period by the division director;

(5) A residential facility licensed through the department placement program, but not operated by the department;

(6) A **[**mental retardation**] developmental disability** facility operated by the department for clients who are **[**developmentally disabled or mentally retarded**] persons with an intellectual disability or developmental disability**.

633.120. REFERRAL FOR ADMISSION TO FACILITY, WHEN — ADMISSION OR REJECTION, APPEAL — CONSENT. — 1. A regional center may refer a client for admission to a **[**mental retardation**] developmental disability** facility only if determined by a comprehensive evaluation that:

(1) The person has a developmental disability;

(2) Protective services are required to guarantee the health, safety or mental well-being of the person;

(3) Placement in a **[**mental retardation**] developmental disability** facility is in the best interests of the person; and

(4) All other less restrictive services, including but not limited to family support and supported living, have been explored and found inadequate to prevent placement in a **[**mental retardation**] developmental disability** facility.

2. The regional center shall forward its comprehensive evaluation containing the determination under subsection 1 of this section and such other records as are necessary to enable the **[**mental retardation**] developmental disability** facility to determine whether to accept or reject the referral.

3. The head of a private **[**mental retardation**] developmental disability** facility may, and the head of a department **[**mental retardation**] developmental disability** facility shall, admit the person if, as a result of reviewing the evaluation, the head of the **[**mental retardation**] developmental disability** facility determines that the client is appropriate for admission as a resident and suitable accommodations are available. If the head of a department **[**mental retardation**] developmental disability** facility rejects the referral, the regional center may appeal the rejection to the division director. After consulting with the head of the referring regional center and the head of the department **[**mental retardation**] developmental disability** facility, the division director shall determine the appropriate disposition of the client.

4. The person to be admitted, if competent, his parent or legal custodian, if he is a minor, or his guardian, as authorized by a court, shall consent to the admission unless otherwise ordered by a court.

5. The head of a **[**mental retardation**] developmental disability** facility shall have an individualized habilitation plan for each resident within thirty days of the resident's admission. Such plan shall include a statement regarding the resident's anticipated length of stay in the facility and the feasibility of least restrictive alternatives.

6. If procedures are initiated under chapter 475 for the appointment of a guardian for a resident of a department **[**mental retardation**] developmental disability** facility, the referral procedure under this section shall not apply.

633.125. DISCHARGE FROM FACILITY, WHEN — MAY BE DENIED, PROCEDURE THEREAFTER — REFERRAL TO REGIONAL CENTER FOR PLACEMENT, WHEN. — 1. A resident admitted to a **[**mental retardation**] developmental disability** facility pursuant to section 633.120 shall be discharged immediately when the person who applied for his admission requests the release orally, in writing or otherwise from the head of the **[**mental retardation**] developmental disability** facility; except, that if the head of the **[**mental retardation**] developmental disability** facility regards the resident as presenting a likelihood of serious harm to himself or others, the head of the facility may initiate involuntary detention procedures pursuant to chapter 632, if appropriate, or any individual, including the head of the facility or the mental health coordinator may initiate guardianship proceedings and, if appropriate, obtain an emergency commitment order pursuant to chapter 475.

2. A resident shall be discharged from a department **[**mental retardation**] developmental disability** facility if it is determined in a comprehensive evaluation or periodic review that the person is not **[**mentally retarded or**] intellectually disabled or** developmentally disabled, and if the resident, parent, if a minor, or guardian consents to the discharge. If consent is not obtained, the head of the facility shall initiate appeal proceedings under section 633.135, before a resident can be discharged.

3. A resident shall either be discharged from a department **[**mental retardation**] developmental disability** facility or shall be referred to a regional center for placement in a least restrictive environment pursuant to section 630.610, if it is determined in a comprehensive evaluation or periodic review that the following criteria exist:

(1) The resident's condition is not of such a nature that for the protection or adequate care of the resident or others the resident needs department residential habilitation or other services;

(2) The **[**mental retardation**] developmental disability** facility does not offer a program which best meets the resident's needs; or

(3) The **[**mental retardation**] developmental disability** facility does not provide the least restrictive environment feasible. A resident may not be discharged without his consent or the consent of his parent, if he is a minor, or guardian unless proceedings have been completed under section 633.135.

4. After a resident's discharge pursuant to subsection 3 of this section, the resident shall be referred to an appropriate regional center for assistance in obtaining any necessary services.

633.130. EVALUATION OF RESIDENTS REQUIRED — DISCHARGE THEREAFTER. — 1. At least once every one hundred eighty days, the head of each **[**mental retardation**] developmental disability** facility shall cause the condition and status of each resident to be reviewed and evaluated for the purpose of determining whether the resident needs further residential habilitation, placement in the least restrictive environment or discharge.

2. The head of the facility shall initiate proceedings to discharge any resident whose continued residential habilitation is no longer appropriate; except, that the head of the facility may refer the resident to the appropriate regional center for placement pursuant to section 630.610.

3. A copy of the evaluation and individualized habilitation plan shall be sent to any court having jurisdiction over the resident.

633.135. REFUSAL OF CONSENT FOR PLACEMENT OR DISCHARGE, EFFECT — PROCEDURE — DEPARTMENT DIRECTOR TO MAKE FINAL DETERMINATION — APPEAL, PROCEDURE — BURDEN OF PROOF. — 1. If a resident, or his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement or to discharge from the facility, the head of the **[**mental retardation**] developmental disability** facility may petition the director of the division to determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620 or whether the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130.

2. The division director shall refer the petition to the chairman of the state advisory council who shall appoint and convene a review panel composed of three members. At least one member of the panel shall be a parent or guardian of a resident who resides in a department **[**mental retardation**] developmental disability** facility. The remaining members of the panel shall be persons who are from nongovernmental organizations or groups concerned with the prevention of **[**mental retardation**] intellectual disability or developmental disability**, evaluation, care and habilitation of **[**mentally retarded**] intellectually disabled or developmentally disabled** persons and who are familiar with services and service needs of **[**mentally retarded**] intellectually disabled or developmentally disabled** persons in facilities operated by the department. No member of the panel shall be an officer or employee of the department.

3. After prompt notice and hearing, the panel shall determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620 or whether the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130. The hearing shall be electronically recorded for purposes of obtaining a transcript. The council shall forward the tape recording, recommended findings of fact, conclusions of law and decision to the director who shall enter findings of fact, conclusions of law and the final decision. Notice of the director's decision shall be sent to the resident, or his parent if he is a minor, or his guardian, by registered mail, return receipt requested. The director shall expedite this review in all respects.

4. If the resident, or his parent if he is a minor, or his guardian disagrees with the decision of the director, he may appeal the decision, within thirty days after notice of the decision is sent, to the circuit court of the county where the resident, or his parent if he is a minor, or his guardian

resides. The court shall review the record, proceedings and decision of the director not only under the provisions of chapter 536, but also as to whether or not the head of the facility sustained his burden of proof that the proposed placement is appropriate under sections 630.110, 630.115 and 630.120, or the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130. The court shall expedite this review in all respects. Notwithstanding the provisions of section 536.140, a court may, for good cause shown, hear and consider additional competent and material evidence.

5. Any resident of a **[**mental retardation**] developmental disability** facility who is age eighteen or older and who does not have a legal guardian shall not be discharged unless probate division of the circuit court approval is obtained to confirm that the resident is not in need of the care, treatment or programs now being received in the **[**mental retardation**] developmental disability** facility.

6. The notice and procedure for the hearing by the panel shall be in accordance with chapter 536.

7. In all proceedings either before the panel or before the circuit court, the burden of proof shall be upon the head of the facility to demonstrate by preponderance of evidence that the proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615, and 630.120, or that the proposed discharge is appropriate under the criteria set forth in sections 633.120, 633.125 and 633.130.

8. Pending a convening of the hearing panel and the final decision of the director or the court, if the director's decision is appealed, the department shall not place or discharge the resident from a facility except that the department may temporarily transfer such resident in the case of a medical emergency.

9. There shall be no disciplinary action against any state employee who in good faith testifies or otherwise provides information or evidence in regard to a proposed placement or discharge.

633.140. RETURN OF ABSENTEE, PROCEDURE. — 1. If any resident leaves a **[**mental retardation**] developmental disability** facility without authorization, the sheriff of the county where the resident is found shall apprehend and return him to the center if requested to do so by the head of the facility.

2. The head of the facility may request the return of an absent resident pursuant to subsection 1 of this section only when one of the following circumstances exists:

(1) The resident is a minor whose admission was applied for by his parent or legal custodian, and such parent or guardian has not requested the resident's release;

(2) The resident is a minor under the jurisdiction of the juvenile court;

(3) The resident has been declared legally incapacitated and his guardian has not requested his release; or

(4) The resident's condition is of such a nature that, for the protection of the resident or others, the head of the facility determines that the resident's return to the facility is necessary. Such determination shall be noted in the resident's records.

633.145. TRANSFER OF PATIENT BETWEEN FACILITIES BY DEPARTMENT — NOTICE, CONSENT. — 1. The department may transfer a resident from one department **[**mental retardation**] developmental disability** facility to another if the division director determines that such transfer is desirable to provide the resident improved habilitation or other services, to better insure his safety and welfare, or to locate him in closer proximity to his family and friends.

2. Transfers may only be made to a private **[**mental retardation**] developmental disability** facility pursuant to section 630.610.

3. Determinations by the division director pursuant to this section shall be written and noted in the resident's records. The division director shall notify the resident, his guardian or next of

kin of such determination. The department shall not transfer any resident unless it receives the consent of the resident, his guardian or his parent, if the resident is a minor.

633.150. TRANSFER OF PATIENT TO MENTAL HEALTH FACILITY BY HEAD OF DEVELOPMENTAL DISABILITY FACILITY, HOW. — The head of a **[**mental retardation**] developmental disability** facility may transfer a resident to a mental health facility only under the provisions of chapter 632. The director shall order that such resident be returned to the **[**mental retardation**] developmental disability** facility when the resident is no longer in need of psychiatric care and treatment.

633.155. ADMISSION FOR RESPITE CARE FOR LIMITED TIME ONLY. — 1. The division may provide or obtain respite care for **[**a mentally retarded**] an intellectually disabled** or developmentally disabled person for respite care of up to twenty-one days which may be extended up to an additional twenty-one days for good cause shown. Any additional respite care beyond forty-two days within a one-year period shall be expressly approved by the director of the division.

2. Notwithstanding the provisions of section 633.120 and section 475.120, a regional center may admit **[**a mentally retarded**] an intellectually disabled** or developmentally disabled person who has been declared legally incapacitated for respite care without a court order authorizing the guardian of such person to obtain such care of up to twenty-one days for good cause shown.

633.160. EMERGENCY ADMISSION MAY BE MADE, DURATION, CONDITIONS. — If a person presents himself, or is presented, to a regional center or department **[**mental retardation**] developmental disability** facility and is determined to be **[**mentally retarded or**] intellectually disabled or** developmentally disabled and, as a result, presents an imminent likelihood of serious harm to himself or others as defined in chapter 632, the regional center or **[**mental retardation**] developmental disability** facility may accept the person for detention for evaluation and treatment for a period not to exceed ninety-six hours under the same procedures contained in chapter 632. The head of the regional center or **[**mental retardation**] developmental disability** facility may initiate guardianship proceedings to have the person detained beyond the ninety-six hours under chapter 475, or may refer the person to a mental health facility, if the person is mentally ill, for further detention under the procedures in chapter 632.

633.180. CASH STIPEND, ELIGIBILITY, AMOUNT, PAYMENT, USE — APPLICATION. — 1. A family with an annual income of sixty thousand dollars or less which has a child with a developmental disability residing in the family home shall be eligible to apply for a cash stipend from the division of **[**mental retardation and**]** developmental disabilities in an amount to be determined by the regional advisory council. Such cash stipend amount shall not exceed the maximum monthly federal Supplemental Security Income payment for an individual with a developmental disability who resides alone. Such stipend shall be paid on a monthly basis and shall be considered a benefit and not income to the family. The stipend shall be used to purchase goods and services for the benefit of the family member with a developmental disability. Such goods and services may include, but are not limited to:

(1) Respite care;
(2) Personal and attendant care;
(3) Architectural and vehicular modifications;
(4) Health- and mental health-related costs not otherwise covered;
(5) Equipment and supplies;
(6) Specialized nutrition and clothing;
(7) Homemaker services;
(8) Transportation;
(9) Integrated community activities;

(10) Training and technical assistance; and

(11) Individual, family and group counseling.

2. Application for such stipend shall be made to the appropriate regional center. The regional center shall determine the eligibility of the individual to receive services from the division and the division shall forward the application to the regional advisory council to determine the amount of the stipend which may be approved by the council.

3. The family support program shall be funded by moneys appropriated by the general assembly; however, the family support program shall not supplant other programs funded through the division of **[**mental retardation and**]** developmental disabilities.

633.185. FAMILY SUPPORT LOAN PROGRAM — INTEREST RATE — AMOUNT — APPLICATION — FAMILY SUPPORT LOAN PROGRAM FUND CREATED. — 1. The division of **[**mental retardation and**]** developmental disabilities, subject to appropriation by the general assembly, is authorized to implement and administer, as part of the family support program, a family support loan program, which shall provide a family with an annual income of sixty thousand dollars or less which has an individual with a developmental disability residing in the home, with low-interest, short-term loans to purchase goods and services for the family member with a developmental disability.

2. Interest rates on loans made pursuant to the provisions of this section shall be no more than one percent above the prime interest rate as determined by the federal reserve system on the date the loan is approved. Loans may be for a maximum period of sixty months and the outstanding loan amount to any family may be no more than ten thousand dollars.

3. Applications for loans shall be made to the appropriate regional center. The regional center shall determine the eligibility of the individual to receive services from the division and the division shall forward the application to the regional advisory council to determine the amount of the loan which may be approved by the council.

4. There is hereby created in the state treasury for use by the department of mental health a fund to be known as the "Family Support Loan Program Fund". Moneys deposited in the fund shall be appropriated to the director of the department of mental health to be used for loans pursuant to this section. The fund shall consist of moneys appropriated by the general assembly for starting the fund and money otherwise deposited according to law. Any unexpended balance in the fund at the end of any biennium, not to exceed twice the annual loans made pursuant to this act in the previous fiscal year, is exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the ordinary revenue fund.

633.190. PROMULGATION OF RULES. — 1. The division of **[**mental retardation and**]** developmental disabilities, in cooperation with the Missouri planning council for developmental disabilities, shall adopt policies and procedures and, when necessary, shall promulgate rules and regulations regarding:

(1) Program guidelines and specifications;

(2) Additional duties of the regional advisory councils;

(3) Annual evaluation of services provided by each regional center, including an assessment of consumer satisfaction;

(4) Coordination of the family support program and the use of its funds throughout the state and within each region, with other publicly funded programs, including Medicaid;

(5) Methodology for allocating resources to families with the funds available;

(6) Resolution of grievances filed by families pertaining to actions of the family support program;

(7) Methodology for outreach and education.

2. 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.

633.210. OFFICE OF AUTISM SERVICES ESTABLISHED, DUTIES — AUTISM SPECTRUM DISORDER DEFINED. — 1. There is hereby established in the department of mental health within the division of **[**mental retardation and**]** developmental disabilities, an "Office of Autism Services". The office of autism services, under the supervision of the director of the division of **[**mental retardation and**]** developmental disabilities, shall provide leadership in program development for children and adults with autism spectrum disorders, to include establishment of program standards and coordination of program capacity.

2. For purposes of this section, the term "autism spectrum disorder" shall be defined as in standard diagnostic criteria for pervasive developmental disorder, to include: autistic disorder; Asperger's syndrome; pervasive developmental disorder-not otherwise specified; childhood disintegrative disorder; and Rett's syndrome.

633.300. GROUP HOMES AND FACILITIES SUBJECT TO FEDERAL AND STATE LAW — WORKERS SUBJECT TO TRAINING REQUIREMENTS — RULEMAKING AUTHORITY. — 1. All group homes and **[**mental retardation**] developmental disability** facilities as defined in section 633.005 shall be subject to all applicable federal and state laws, regulations, and monitoring, including but not limited to sections 630.705 to 630.805.

2. All mental health workers, as defined in subdivision (8) of section 210.900, shall be subject to the same training requirements established for state mental health workers with comparable positions in public group homes and mental health facilities. Such required training shall be paid for by the employer.

3. Group homes and **[**mental retardation**] developmental disability** facilities shall be subject to the same medical errors reporting requirements of other mental health facilities and group homes.

4. The department shall promulgate rules or amend existing rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2008, shall be invalid and void.

633.303. TERMINATION OF WORKERS ON DISQUALIFICATION REGISTRY. — Any employee, including supervisory personnel, of a group home or **[**mental retardation**] developmental disability** facility who has been placed on the disqualification registry pursuant to section 630.170 shall be terminated. Such requirements shall be specified in contracts between the department and providers pursuant to this section.

633.309. NO TRANSFER TO HOMES OR FACILITIES WITH NONCOMPLIANCE NOTICES. — The department of mental health shall not transfer any person to any group home or **[**mental retardation**] developmental disability** facility that has received a notice of noncompliance, until there is an approved plan of correction pursuant to sections 630.745 and 630.750.

Approved July 12, 2011

HB 557 [HCS HB 557]

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 Mental Health Earnings Fund to be used for the deposit of revenue received from the proceeds of any sales and services from Mental Health First Aid USA

AN ACT to repeal sections 630.053 and 630.095, RSMo, and to enact in lieu thereof two new sections relating to the mental health earnings fund.

SECTION

A. Enacting clause.
630.053. Mental health earnings fund — uses — rules and regulations, procedure.
630.095. Copyrights and trademarks by department.

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

SECTION A. ENACTING CLAUSE. — Sections 630.053 and 630.095, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 630.053 and 630.095, to read as follows:

630.053. MENTAL HEALTH EARNINGS FUND — USES — RULES AND REGULATIONS, PROCEDURE. — 1. There is hereby created in the state treasury a fund to be known as the "Mental Health Earnings Fund". The state treasurer shall credit to the fund any interest earned from investing the moneys in the fund. Notwithstanding the provisions of section 33.080, money in the mental health earnings fund shall not be transferred and placed to the credit of general revenue at the end of the biennium.

2. Fees received pursuant to the substance abuse traffic offenders program shall be deposited in the mental health earnings fund. Such fees shall not be used for personal services, expenses and equipment or for any demonstration or other program. No other federal or state funds shall be deposited in the fund, except for the purposes provided in subsections 3 **[**and 4**] to 5** of this section. The moneys received from such fees shall be appropriated solely for assistance in securing alcohol and drug rehabilitation services for persons who are unable to pay for the services they receive.

3. The mental health earnings fund may be used for the deposit of revenue received for the provision of services under a managed care agreement entered into by the department of mental health. Subject to the approval through the appropriation process, such revenues may be expended for the purposes of providing such services pursuant to the managed care agreement and for no other purpose and shall be accounted for separately from all other revenues deposited in the fund.

4. The mental health earnings fund may, if approved through the appropriation process, be used for the deposit of revenue received pursuant to an agreement entered into by the department of mental health and an alcohol and drug abuse counselor certification board for the purpose of providing oversight of counselor certification. Such revenue shall be accounted for separately from all other revenues deposited in the fund.

5. **The mental health earnings fund may be used for the deposit of revenue received from proceeds of any sales and services from Mental Health First Aid USA. Subject to the approval through the appropriation process, such proceeds shall be used for the purpose of funding Mental Health First Aid USA activities and shall be accounted for separately from all other revenues deposited in the fund.**

6. The department of mental health shall promulgate rules and regulations to implement and administer the provisions of this section. No rule or portion of a rule promulgated pursuant to

the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

630.095. COPYRIGHTS AND TRADEMARKS BY DEPARTMENT. — The department may copyright or obtain a trademark for any instructional, training and informational audio-visual materials, manuals and documents which are prepared by department personnel or by persons who receive department funding to prepare such material. If the material is sold directly or for distribution, the department shall pay the proceeds of the sales to the director of revenue for deposit to the general revenue fund**, except for proceeds received under subsection 5 of section 630.053**.

Approved May 5, 2011

HB 578 [SCS HCS HB 578]

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 or any political subdivision or agency of the state to transfer ownership of used tires, scrap tires, or tire shred to a private entity for disposal or recycling under certain conditions

AN ACT to amend chapter 260, RSMo, by adding thereto one new section relating to the disposal of tires.

SECTION
A. Enacting clause.
260.269. In-state private entity disposal permitted, when.

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

SECTION A. ENACTING CLAUSE. — Chapter 260, RSMo, is amended by adding thereto one new section, to be known as section 260.269, to read as follows:

260.269. IN-STATE PRIVATE ENTITY DISPOSAL PERMITTED, WHEN. — Notwithstanding any provision of law to the contrary, the state, including without limitation, any agency or political subdivision thereof, in possession of used tires, scrap tires, or tire shred may transfer possession and ownership of such tires or shred to any in-state private entity to be lawfully disposed of or recycled; provided, such tires or shred are not burned as a fuel except in a permitted facility; and further provided, such tires shall not be disposed of in a landfill; and still further provided, the cost incurred by the state, agency, or political subdivision transferring such tires or shred is less than the cost the state, agency, or political subdivision would have otherwise incurred had it disposed of such tires or shred. The private entity shall pay for the transportation of such used tires they receive.

Approved July 8, 2011

HB 591 [SCS HB 591]

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 Missouri Dental Board to issue a limited teaching license to a dentist employed as an instructor in an accredited dental school located in this state

AN ACT to amend chapter 332, RSMo, by adding thereto one new section relating to limited dental teaching license.

SECTION

A. Enacting clause.
332.425. Instructor in accredited school, issuance of teaching license, when.

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

SECTION A. ENACTING CLAUSE. — Chapter 332, RSMo, is amended by adding thereto one new section, to be known as section 332.425, to read as follows:

332.425. INSTRUCTOR IN ACCREDITED SCHOOL, ISSUANCE OF TEACHING LICENSE, WHEN. — 1. The dental board may issue a limited teaching license to a dentist employed as an instructor in an accredited dental school in Missouri. The holder of a limited teaching license shall be authorized to practice dentistry, in accordance with section 332.071, only within the confines of the accredited dental school programs. A limited teaching license shall be renewed every two years and shall be subject to the same renewal requirements contained in section 332.181. A limited teaching license shall be subject to discipline in accordance with section 332.321 and shall be automatically cancelled and nullified if the holder ceases to be employed as an instructor in the accredited dental school.

2. To qualify for a limited teaching license, an applicant shall:

(1) Be a graduate of and hold a degree from a dental school. An applicant shall not be required to be a graduate of an accredited dental school as defined in section 332.011;

(2) Have passed the National Board Examination in accordance with criteria established by the sponsoring body;

(3) Have passed a state or regional entry level competency examination approved by the Missouri dental board for licensure within the previous five years;

(4) Have passed a written jurisprudence examination given by the board on the Missouri dental laws and rules with a grade of at least eighty percent;

(5) Hold current certification in the American Heart Association's Basic Life Support (BLS), Advanced Cardiac Life Support (ACLS), or certification equivalent to BLS or ACLS;

(6) Submit to the board a completed application for licensure on forms provided by the board and the applicable license fee; and

(7) Submit to the board evidence of successful passage of an examination, approved by the board, of spoken and written proficiency in the English language.

Approved July 8, 2011

HB 604 [SS SCS HCS HB 604]

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 a task force on foster care recruitment, licensing, and retention and the Missouri State Foster Care and Adoption Board and changes the laws regarding parental rights and foster care placements

AN ACT to repeal sections 210.112, 210.496, 210.498, 210.565, 211.031, 211.447, and 453.070, RSMo, and to enact in lieu thereof ten new sections relating to parental rights.

SECTION

A. Enacting clause.
143.1015. Foster care and adoptive parents recruitment and retention fund, refund donation to — director's duties — sunset provision.
210.112. Children's services providers and agencies, contracting with, requirements — reports to general assembly — task force created — rulemaking authority.
210.496. Refusal to issue, suspension or revocation of licenses — grounds.
210.498. Access to records on the suspension or revocation of a foster home license — procedure for release of information.
210.565. Relatives of child shall be given foster home placement, when — relative, defined — order of preference — specific findings required, when — sibling placement — age of relative not a factor, when — federal requirements to be followed for placement of Native American children — waiver of certain standards, when — GAL to ascertain child's wishes, when.
210.617. Missouri state foster care and adoption board created, duties, members, expenses, meetings — written annual report, when.
211.031. Juvenile court to have exclusive jurisdiction, when — exceptions — home schooling, attendance violations, how treated.
211.447. Petition to terminate parental rights filed, when — juvenile court may terminate parental rights, when — investigation to be made — grounds for termination.
453.070. Investigations precondition for adoption — contents of investigation report — how conducted — assessments of adoptive parents, contents — waiving of investigation, when — fees — preference to foster parents, when.
453.600. Fund created, use of moneys — board created, purpose, members, duties — sunset provision.

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

SECTION A. ENACTING CLAUSE. — Sections 210.112, 210.496, 210.498, 210.565, 211.031, 211.447, and 453.070, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 143.1015, 210.112, 210.496, 210.498, 210.565, 210.617, 211.031, 211.447, 453.070, and 453.600, to read as follows:

143.1015. FOSTER CARE AND ADOPTIVE PARENTS RECRUITMENT AND RETENTION FUND, REFUND DONATION TO — DIRECTOR'S DUTIES — SUNSET PROVISION. — 1. In each taxable year beginning on or after January 1, 2011, 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 foster care and adoptive parents recruitment and retention fund as established under section 453.600, hereinafter referred to as the fund. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the 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 foster care and adoptive parents recruitment and retention fund, the individual or corporation wishes to contribute. The department of revenue shall deposit such amount

to the fund as provided in subsections 2 and 3 of this section. All moneys credited to the fund shall be considered nonstate funds under the provisions of article IV, section 15 of the Missouri Constitution.

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 fund.

3. The director of revenue shall deposit at least monthly all contributions designated by corporations under this section, less an amount sufficient to cover the costs of collection and handling by the department of revenue, to the state treasury for deposit to the fund.

4. A contribution designated under this section shall only be deposited in the fund after all other claims against the refund from which such contribution is to be made have been satisfied.

5. Moneys deposited in the fund shall be distributed by the department of social services in accordance with the provisions of this section and section 453.600.

6. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2011, 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.

210.112. CHILDREN'S SERVICES PROVIDERS AND AGENCIES, CONTRACTING WITH, REQUIREMENTS — REPORTS TO GENERAL ASSEMBLY — TASK FORCE CREATED — RULEMAKING AUTHORITY. — 1. It is the policy of this state and its agencies to implement a foster care and child protection and welfare system focused on providing the highest quality of services and outcomes for children and their families. The department of social services shall implement such system subject to the following principles:

(1) The safety and welfare of children is paramount;

(2) Providers of direct services to children and their families will be evaluated in a uniform and consistent basis;

(3) Services to children and their families shall be provided in a timely manner to maximize the opportunity for successful outcomes; and

(4) Any provider of direct services to children and families shall have the appropriate and relevant training, education, and expertise to provide the highest quality of services possible which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004.

2. On or before July 1, 2005, and subject to appropriations, the children's division and any other state agency deemed necessary by the division shall, in consultation with the community and providers of services, enter into and implement contracts with qualified children's services providers and agencies to provide a comprehensive and deliberate system of service delivery for children and their families. Contracts shall be awarded through a competitive process and provided by children's services providers and agencies currently contracting with the state to provide such services and by public and private not-for-profit or limited liability corporations owned exclusively by not-for-profit corporations children's services providers and agencies which have:

(1) A proven record of providing child welfare services within the state of Missouri which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004; and

(2) The ability to provide a range of child welfare services, which may include case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case management, planned permanent living services, and family reunification services.

No contracts shall be issued for services related to the child abuse and neglect hotline, investigations of alleged abuse and neglect, and initial family assessments. Any contracts entered into by the division shall be in accordance with all federal laws and regulations, and shall not result in the loss of federal funding. Such children's services providers and agencies under contract with the division shall be subject to all federal, state, and local laws and regulations relating to the provision of such services, and shall be subject to oversight and inspection by appropriate state agencies to assure compliance with standards which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004.

3. In entering into and implementing contracts under subsection 2 of this section, the division shall consider and direct their efforts towards geographic areas of the state, including Greene County, where eligible direct children's services providers and agencies are currently available and capable of providing a broad range of services, including case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, family preservation services, foster care services, adoption services, relative care case management, other planned living arrangements, and family reunification services consistent with federal guidelines. Nothing in this subsection shall prohibit the division from contracting on an as-needed basis for any individual child welfare service listed above.

4. The contracts entered into under this section shall assure that:

(1) Child welfare services shall be delivered to a child and the child's family by professionals who have substantial and relevant training, education, or competencies otherwise demonstrated in the area of children and family services;

(2) Children's services providers and agencies shall be evaluated by the division based on objective, consistent, and performance-based criteria;

(3) Any case management services provided shall be subject to a case management plan established under subsection 5 of this section which is consistent with all relevant federal guidelines. The case management plan shall focus on attaining permanency in children's living conditions to the greatest extent possible and shall include concurrent planning and independent living where appropriate in accordance with the best interests of each child served and considering relevant factors applicable to each individual case as provided by law, including:

(a) The interaction and interrelationship of a child with the child's foster parents, biological or adoptive parents, siblings, and any other person who may significantly affect the child's best interests;

(b) A child's adjustment to his or her foster home, school, and community;

(c) The mental and physical health of all individuals involved, including any history of abuse of or by any individuals involved;

(d) The needs of the child for a continuing relationship with the child's biological or adoptive parents and the ability and willingness of the child's biological or adoptive parents to actively perform their functions as parents with regard to the needs of the child; and

(e) For any child under ten years old, treatment services may be available as defined in section 210.110. Assessments, as defined in section 210.110, may occur to determine which treatment services best meet the child's psychological and social needs. When the assessment indicates that a child's needs can be best resolved by intensive twenty-four-hour treatment services, the division will locate, contract, and place the child with the appropriate organizations. This placement will be viewed as the least restrictive for the child based on the assessment;

(4) The delivery system shall have sufficient flexibility to take into account children and families on a case-by-case basis;

(5) The delivery system shall provide a mechanism for the assessment of strategies to work with children and families immediately upon entry into the system to maximize permanency and successful outcome in the shortest time possible and shall include concurrent planning. Outcome measures for private and public agencies shall be equal for each program; and

(6) Payment to the children's services providers and agencies shall be made based on the reasonable costs of services, including responsibilities necessary to execute the contract. Contracts shall provide incentives in addition to the costs of services provided in recognition of accomplishment of the case goals and the corresponding cost savings to the state. The division shall promulgate rules to implement the provisions of this subdivision.

5. Contracts entered into under this section shall require that a case management plan consistent with all relevant federal guidelines shall be developed for each child at the earliest time after the initial investigation, but in no event longer than fourteen days after the initial investigation or referral to the contractor by the division. Such case management plan shall be presented to the court and be the foundation of service delivery to the child and family. The case management plan shall, at a minimum, include:

(1) An outcome target based on the child and family situation achieving permanency or independent living, where appropriate;

(2) Services authorized and necessary to facilitate the outcome target;

(3) Time frames in which services will be delivered; and

(4) Necessary evaluations and reporting.

In addition to any visits and assessments required under case management, services to be provided by a public or private children's services provider under the specific case management plan may include family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case services, planned permanent living services, and family reunification services. In all cases, an appropriate level of services shall be provided to the child and family after permanency is achieved to assure a continued successful outcome.

6. **The division shall convene a task force to review the recruitment, licensing and retention of foster and adoptive parents statewide. In addition to representatives of the division and department, the task force shall include representatives of the private sector and faith-based community which provide recruitment and licensure services. The purpose of the task force shall be to study the extent to which changes in the system of recruiting, licensing, and retaining foster and adoptive parents would enhance the effectiveness of the system statewide. The task force shall develop a report of its findings with recommendations by December 1, 2011, and provide copies of the report to the general assembly and to the governor.**

7. On or before July 15, 2006, and each July fifteenth thereafter that the project is in operation, the division shall submit a report to the general assembly which shall include:

(1) Details about the specifics of the contracts, including the number of children and families served, the cost to the state for contracting such services, the current status of the children and families served, an assessment of the quality of services provided and outcomes achieved, and an overall evaluation of the project; and

(2) Any recommendations regarding the continuation or possible statewide implementation of such project; and

(3) Any information or recommendations directly related to the provision of direct services for children and their families that any of the contracting children's services providers and agencies request to have included in the report.

[7.**] 8.** The division shall accept as prima facie evidence of completion of the requirements for licensure under sections 210.481 to 210.511 proof that an agency is accredited by any of the following nationally recognized bodies: the Council on Accreditation of Services, Children and Families, Inc.; the Joint Commission on Accreditation of Hospitals; or the Commission on

Accreditation of Rehabilitation Facilities. The division shall not require any further evidence of qualification for licensure if such proof of voluntary accreditation is submitted.

[8.**]** **9.** By February 1, 2005, the children's division shall promulgate and have in effect rules to implement the provisions of this section and, pursuant to this section, shall define implementation plans and dates. Any rule or portion of a rule, as that term is defined in section 536.010, 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 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

210.496. REFUSAL TO ISSUE, SUSPENSION OR REVOCATION OF LICENSES — GROUNDS. — The division may refuse to issue either a license or a provisional license to an applicant, or may suspend or revoke the license or provisional license of a licensee, who:

(1) Fails consistently to comply with the applicable provisions of sections 208.400 to 208.535 and the applicable rules promulgated thereunder;

(2) Violates any of the provisions of its license;

(3) Violates state laws or rules relating to the protection of children;

(4) Furnishes or makes any misleading or false statements or reports to the division;

(5) Refuses to submit to the division any reports or refuses to make available to the division any records required by the division in making an investigation;

(6) Fails or refuses to admit authorized representatives of the division at any reasonable time for the purpose of investigation;

(7) Fails or refuses to submit to an investigation by the division;

(8) Fails to provide, maintain, equip, and keep in safe and sanitary condition the premises established or used for the care of children being served, as required by law, rule, or ordinance applicable to the location of the foster home or residential care facility; or

(9) Fails to provide financial resources adequate for the satisfactory care of and services to children being served and the upkeep of the premises.

Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of an applicant. The disability or disease of an applicant shall not constitute a basis for a determination that the applicant is unfit or not suitable to be a foster parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child or an inability to perform the duties of a foster parent.

210.498. ACCESS TO RECORDS ON THE SUSPENSION OR REVOCATION OF A FOSTER HOME LICENSE — PROCEDURE FOR RELEASE OF INFORMATION. — Any parent or legal guardian may have access to investigation records kept by the division regarding a decision for the denial of or the suspension or revocation of a license to a specific person to operate or maintain a foster home if such specific person does or may provide services or care to a child of the person requesting the information. The request for the release of such information shall be made to the division director or the director's designee, in writing, by the parent or legal guardian of the child and shall be accompanied with a signed and notarized release form from the person who does or may provide care or services to the child. The notarized release form shall include the full name, date of birth and Social Security number of the person who does or may provide care or services to a child. The response shall include **only** information pertaining to the nature and disposition of any denial, suspension or revocation of a license to operate a foster home. This response shall not include any identifying information regarding any person

other than the person to whom a foster home license was denied, suspended or revoked. The response shall be given within ten working days of the time it was received by the division.

210.565. RELATIVES OF CHILD SHALL BE GIVEN FOSTER HOME PLACEMENT, WHEN — RELATIVE, DEFINED — ORDER OF PREFERENCE — SPECIFIC FINDINGS REQUIRED, WHEN — SIBLING PLACEMENT — AGE OF RELATIVE NOT A FACTOR, WHEN — FEDERAL REQUIREMENTS TO BE FOLLOWED FOR PLACEMENT OF NATIVE AMERICAN CHILDREN — WAIVER OF CERTAIN STANDARDS, WHEN — GAL TO ASCERTAIN CHILD'S WISHES, WHEN. — 1. Whenever a child is placed in a foster home and the court has determined pursuant to subsection 3 of this section that foster home placement with relatives is not contrary to the best interest of the child, the children's division shall give foster home placement to relatives of the child. Notwithstanding any rule of the division to the contrary, the children's division shall make diligent efforts to locate the grandparents of the child and determine whether they wish to be considered for placement of the child. Grandparents who request consideration shall be given preference and first consideration for foster home placement of the child. If more than one grandparent requests consideration, the family support team shall make recommendations to the juvenile or family court about which grandparent should be considered for placement.

2. As used in this section, the term "relative" means a grandparent or any other person related to another by blood or affinity within the third degree. The status of a grandparent shall not be affected by the death or the dissolution of the marriage of a son or daughter.

3. **The following shall be the order or preference for placement of a child under this section:**

(1) Grandparents and relatives;

(2) A trusted adult that has a preexisting relationship with the child, such as a godparent, teacher, neighbor, or fellow parishioner who voluntarily agrees to care for the child; and

(3) Any foster parent who is currently licensed and capable of accepting placement of the child.

4. The preference for placement and first consideration for grandparents or preference for placement with other relatives created by this section shall only apply where the court finds that placement with such grandparents or other relatives is not contrary to the best interest of the child considering all circumstances. If the court finds that it is contrary to the best interest of a child to be placed with grandparents or other relatives, the court shall make specific findings on the record detailing the reasons why the best interests of the child necessitate placement of the child with persons other than grandparents or other relatives.

5. Recognizing the critical nature of sibling bonds for children, the children's division shall make reasonable efforts to place siblings in the same foster care, kinship, guardianship, or adoptive placement, unless doing so would be contrary to the safety or well-being of any of the siblings. If siblings are not placed together, the children's division shall make reasonable efforts to provide frequent visitation or other ongoing interaction between the siblings, unless this interaction would be contrary to a sibling's safety or well-being.

[4.**] 6.** The age of the child's grandparent or other relative shall not be the only factor that the children's division takes into consideration when it makes placement decisions and recommendations to the court about placing the child with such grandparent or other relative.

[5.**] 7.** For any Native American child placed in protective custody, the children's division shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

[6.**] 8.** A grandparent or other relative may, on a case-by-case basis, have standards for licensure not related to safety waived for specific children in care that would otherwise impede licensing of the grandparent's or relative's home. **In addition, any person receiving a preference may be licensed in an expedited manner if a child is placed under such person's care.**

[7.**]** **9.** The guardian ad litem shall ascertain the child's wishes and feelings about his or her placement by conducting an interview or interviews with the child, if appropriate based on the child's age and maturity level, which shall be considered as a factor in placement decisions and recommendations, but shall not supersede the preference for relative placement created by this section or be contrary to the child's best interests.

210.617. MISSOURI STATE FOSTER CARE AND ADOPTION BOARD CREATED, DUTIES, MEMBERS, EXPENSES, MEETINGS — WRITTEN ANNUAL REPORT, WHEN. — 1. There is hereby created within the department of social services the "Missouri State Foster Care and Adoption Board", which shall provide consultation and assistance to the department and shall draft and provide an independent review of the children's division policies and procedures related to the provision of foster care and adoption in Missouri. Additionally, the board shall determine the nature and content of in-service training which shall be provided to foster and adoptive parents in order to improve the provision of foster care and adoption services to children statewide consistent with section 210.566. The board shall be comprised of foster and adoptive parents as follows:

(1) Two members from each of the seven children's division areas within the department of social services delineated as follows:

(a) The northwest region;

(b) The northeast region;

(c) The southeast region;

(d) The southwest region;

(e) The Kansas City region;

(f) The St. Louis area region;

(g) The St. Louis City region;

(2) Area members shall be appointed by the governor, with the advice and consent of the senate, based upon recommendations by regional foster care and adoption boards, or other similar entities.

2. Statewide foster care and adoption association representatives shall be voting members of the board as approved by the board.

3. All members of the board shall serve for a term of at least two years. Members may be re-appointed to the board by their entities for consecutive terms. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner in which the board membership which is vacant was originally filled.

4. Each member of the board may be reimbursed for actual and necessary expenses incurred by the member in performance of his or her official duties. All reimbursements made under this subsection shall be made from funds within the department of social services' children's division budget.

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

6. The board shall elect officers from the membership consisting of a chairperson, co-chairperson, and secretary. Officers shall serve for a term of two years. The board may elect such other officers and establish such committees as it deems appropriate.

7. The board shall establish such procedures necessary to:

(1) Review children's division proposed policy and provide written opinions and recommendations for change to the children's division within thirty days of receipt of the proposed policy;

(2) Provide draft policy suggestions, at the request of the children's division or in response to issues by the board, to the children's division for improvements in foster care or adoption practice; and

(3) Fulfill its statutory requirement in accordance with section 210.566 to determine the content of in-service training to be provided by the children's division to foster and adoptive parents.

8. The board shall provide to the director of the department of social services, the governor, the office of the child advocate, and upon request, members of the general assembly, a written report of annual activities conducted and made.

9. The board shall exercise its powers and duties independently of the children's division within the department of social services in order to ensure partnership and accountability in the provision of services to the state's children affected by abuse and neglect. Budgetary, procurement, and accounting functions shall continue to be performed by the children's division.

211.031. JUVENILE COURT TO HAVE EXCLUSIVE JURISDICTION, WHEN — EXCEPTIONS — HOME SCHOOLING, ATTENDANCE VIOLATIONS, HOW TREATED. — 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the

circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, and except that the juvenile court shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall have concurrent jurisdiction with the circuit court on any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570 with the consent of the receiving court;

(5) Upon motion of any child or person seventeen years of age or his or her parent, the court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court Rules;

(6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

4. When an investigation by a juvenile officer pursuant to this section reveals that the only basis for action involves an alleged violation of section 167.031 involving a child who alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child to verify that the child is being home schooled and not in violation of section 167.031 before making a report of such a violation. Any report of a violation of section 167.031 made by a juvenile officer regarding a child who is being home schooled shall be made to the prosecuting attorney of the county where the child legally resides.

5. The disability or disease of a parent shall not constitute a basis for a determination that a child is a child in need of care or for the removal of custody of a child from the parent without a specific showing that there is a causal relation between the disability or disease and harm to the child.

211.447. PETITION TO TERMINATE PARENTAL RIGHTS FILED, WHEN — JUVENILE COURT MAY TERMINATE PARENTAL RIGHTS, WHEN — INVESTIGATION TO BE MADE — GROUNDS FOR TERMINATION. — 1. Any information that could justify the filing of a petition to terminate parental rights may be referred to the juvenile officer by any person. The juvenile officer shall make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should be filed, such officer shall so notify the informant in writing within thirty days of the referral. Such notification shall include the reasons that the petition will not be filed. Thereupon, the informant may bring the matter directly to the attention of the judge of the juvenile court by presenting the information in writing, and if it appears to the judge that the information could justify the filing of a petition, the judge may order the juvenile officer to take further action, including making a further preliminary inquiry or filing a petition.

2. Except as provided for in subsection 4 of this section, a petition to terminate the parental rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, when:

(1) Information available to the juvenile officer or the division establishes that the child has been in foster care for at least fifteen of the most recent twenty-two months; or

(2) A court of competent jurisdiction has determined the child to be an abandoned infant. For purposes of this subdivision, an "infant" means any child one year of age or under at the time of filing of the petition. The court may find that an infant has been abandoned if:

(a) The parent has left the child under circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so; or

(3) A court of competent jurisdiction has determined that the parent has:

(a) Committed murder of another child of the parent; or

(b) Committed voluntary manslaughter of another child of the parent; or

(c) Aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; or

(d) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent.

3. A termination of parental rights petition shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, within sixty days of the judicial determinations required in subsection 2 of this section, except as provided in subsection 4 of this section. Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate a petition for termination of parental rights which is filed outside of sixty days.

4. If grounds exist for termination of parental rights pursuant to subsection 2 of this section, the juvenile officer or the division may, but is not required to, file a petition to terminate the parental rights of the child's parent or parents if:

(1) The child is being cared for by a relative; or

(2) There exists a compelling reason for determining that filing such a petition would not be in the best interest of the child, as documented in the permanency plan which shall be made available for court review; or

(3) The family of the child has not been provided such services as provided for in section 211.183.

5. The juvenile officer or the division may file a petition to terminate the parental rights of the child's parent when it appears that one or more of the following grounds for termination exist:

(1) The child has been abandoned. For purposes of this subdivision a "child" means any child over one year of age at the time of filing of the petition. The court shall find that the child has been abandoned if, for a period of six months or longer:

(a) The parent has left the child under such circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so;

(2) The child has been abused or neglected. In determining whether to terminate parental rights pursuant to this subdivision, the court shall consider and make findings on the following conditions or acts of the parent:

(a) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(b) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control of the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control;

(c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child or any child in the family by the parent, including an act of incest, or by another under circumstances that indicate that the parent knew or should have known that such acts were being committed toward the child or any child in the family; or

(d) Repeated or continuous failure by the parent, although physically or financially able, to provide the child with adequate food, clothing, shelter, or education as defined by law, or other care and control necessary for the child's physical, mental, or emotional health and development**.**

Nothing in this subdivision shall be construed to permit discrimination on the basis of disability or disease;

(3) The child has been under the jurisdiction of the juvenile court for a period of one year, and the court finds that the conditions which led to the assumption of jurisdiction still persist, or conditions of a potentially harmful nature continue to exist, that there is little likelihood that those conditions will be remedied at an early date so that the child can be returned to the parent in the near future, or the continuation of the parent-child relationship greatly diminishes the child's prospects for early integration into a stable and permanent home. In determining whether to terminate parental rights under this subdivision, the court shall consider and make findings on the following:

(a) The terms of a social service plan entered into by the parent and the division and the extent to which the parties have made progress in complying with those terms;

(b) The success or failure of the efforts of the juvenile officer, the division or other agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to provide a proper home for the child;

(c) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(d) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control over the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control; or

(4) The parent has been found guilty or pled guilty to a felony violation of chapter 566 when the child or any child in the family was a victim, or a violation of section 568.020 when the child or any child in the family was a victim. As used in this subdivision, a "child" means any person who was under eighteen years of age at the time of the crime and who resided with such parent or was related within the third degree of consanguinity or affinity to such parent; or

(5) The child was conceived and born as a result of an act of forcible rape. When the biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such a plea or conviction shall be conclusive evidence supporting the termination of the biological father's parental rights; or

(6) The parent is unfit to be a party to the parent and child relationship because of a consistent pattern of committing a specific abuse, including but not limited to, abuses as defined in section 455.010, child abuse or drug abuse before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that within a three-year period immediately prior to the termination adjudication, the parent's parental rights to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of this section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar laws of other states.

6. The juvenile court may terminate the rights of a parent to a child upon a petition filed by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court finds that the termination is in the best interest of the child and when it appears by clear, cogent and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

7. When considering whether to terminate the parent-child relationship pursuant to subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section, the court shall evaluate and make findings on the following factors, when appropriate and applicable to the case:

(1) The emotional ties to the birth parent;

(2) The extent to which the parent has maintained regular visitation or other contact with the child;

(3) The extent of payment by the parent for the cost of care and maintenance of the child when financially able to do so including the time that the child is in the custody of the division or other child-placing agency;

(4) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time;

(5) The parent's disinterest in or lack of commitment to the child;

(6) The conviction of the parent of a felony offense that the court finds is of such a nature that the child will be deprived of a stable home for a period of years; provided, however, that incarceration in and of itself shall not be grounds for termination of parental rights;

(7) Deliberate acts of the parent or acts of another of which the parent knew or should have known that subjects the child to a substantial risk of physical or mental harm.

8. The court may attach little or no weight to infrequent visitations, communications, or contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child relationship may serve as an inducement for the parent's rehabilitation.

9. In actions for adoption pursuant to chapter 453, the court may hear and determine the issues raised in a petition for adoption containing a prayer for termination of parental rights filed with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

10. The disability or disease of a parent shall not constitute a basis for a termination of parental rights without a specific showing that there is a causal relation between the disability or disease and harm to the child.

453.070. INVESTIGATIONS PRECONDITION FOR ADOPTION — CONTENTS OF INVESTIGATION REPORT — HOW CONDUCTED — ASSESSMENTS OF ADOPTIVE PARENTS, CONTENTS — WAIVING OF INVESTIGATION, WHEN — FEES — PREFERENCE TO FOSTER PARENTS, WHEN. — 1. Except as provided in subsection 5 of this section, no decree for the adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners in such adoption as ordered by the juvenile court having jurisdiction, until a full investigation, which includes an assessment of the adoptive parents, an appropriate postplacement assessment and a summary of written reports as provided for in section 453.026, and any other pertinent information relevant to whether the child is suitable for adoption by the petitioner and whether the petitioner is suitable as a parent for the child, has been made. The report shall also include a statement to the effect that the child has been considered as a potential subsidy recipient.

2. Such investigation shall be made, as directed by the court having jurisdiction, either by the division of family services of the state department of social services, a juvenile court officer, a licensed child-placement agency, a social worker licensed pursuant to chapter 337, or other suitable person appointed by the court. The results of such investigation shall be embodied in a written report that shall be submitted to the court within ninety days of the request for the investigation.

3. The department of social services, division of family services, shall develop rules and regulations regarding the content of the assessment of the petitioner or petitioners. The content of the assessment shall include but not be limited to, a report on the condition of the petitioner's home and information on the petitioner's education, financial, marital, medical and psychological status and criminal background check. If an assessment is conducted after August 28, 1997, but prior to the promulgation of rules and regulations by the department concerning the contents of such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to the court prior to the scheduled hearing of the adoptive petition.

5. In cases where the adoption or custody involves a child under eighteen years of age that is the natural child of one of the petitioners and where all of the parents required by this chapter to give consent to the adoption or transfer of custody have given such consent, the juvenile court may waive the investigation and report, except the criminal background check, and enter the decree for the adoption or order the transfer of custody without such investigation and report.

6. In the case of an investigation and report made by the division of family services by order of the court, the court may order the payment of a reasonable fee by the petitioner to cover the costs of the investigation and report.

7. Any adult person or persons over the age of eighteen, who, as foster parent or parents, have cared for a foster child continuously for a period of nine months or more and bonding has occurred as evidenced by the positive emotional and physical interaction between the foster parent and child, may apply to such authorized agency for the placement of such child with them for the purpose of adoption if the child is eligible for adoption. The agency and court shall give preference and first consideration for adoptive placements to foster parents. However, the final determination of the propriety of the adoption of such foster child shall be within the sole discretion of the court.

8. (1) Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of a prospective adoptive parent.

(2) The disability or disease of a prospective adoptive parent shall not constitute a basis for a determination that the petitioner is unfit or not suitable to be an adoptive parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child.

453.600. FUND CREATED, USE OF MONEYS — BOARD CREATED, PURPOSE, MEMBERS, DUTIES — SUNSET PROVISION. — 1. There is hereby created in the state treasury the "Foster Care and Adoptive Parents Recruitment and Retention Fund" which shall consist of all gifts, donations, transfers, and moneys appropriated by the general assembly, and bequests to the fund. The fund shall maintain no more than the total of the last two years of funding or a minimum of three hundred thousand dollars, whichever is greater. The fund shall be administered by the foster care and adoptive parents recruitment and retention fund board created in subsection 3 of this section.

2. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Notwithstanding the provisions of section 33.080 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. 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.

3. There is hereby created the "Foster Care and Adoptive Parents Recruitment and Retention Fund Board" within the department of social services. The board shall consist of the following members or their designees:

(1) The director of the department of social services;

(2) The director of the department of mental health;

(3) The director of the department of health and senior services;

(4) The following six members to be appointed by the director of the department of social services:

(a) Two representatives of a recognized foster parent association;

(b) Two representatives of a licensed child-placing agency; and

(c) Two representatives of a licensed residential treatment center.

Members appointed under subdivision (4) of this subsection shall serve three-year terms, subject to reappointment. Of the members initially appointed, three shall be appointed for a two-year term and three shall be appointed three-year terms. All members of the board shall serve without compensation but shall, subject to appropriation, be reimbursed for reasonable and necessary expenses actually incurred in the performance of their official duties as members of the board. The department of social services shall, with existing resources, provide administrative support and current staff as necessary for the effective operation of the board.

4. Upon appropriation, moneys in the fund shall be used to grant awards to licensed community-based foster care and adoption recruitment programs. The board shall establish guidelines for disbursement of the fund to certain programs. Such programs shall include, but not be limited to, recruitment and retention of foster and adoptive families for children who:

(1) Have been in out-of-home placement for fifteen months or more;

(2) Are more than twelve years of age; or

(3) Are in sibling groups.

Moneys in the fund shall not be subject to appropriation for purposes other than those of evidence-based foster care and adoption programs as designated by the board established under this section.

5. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new fund authorized under this section shall automatically sunset six years after August 28, 2011, unless reauthorized by an act of the general assembly; and

(2) If such fund is reauthorized, the fund 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 fund authorized under this section is sunset.

Approved July 12, 2011

HB 631 [SCS HCS HB 631]

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 a person or corporation to designate a tax refund to the Developmental Disabilities Waiting List Equity Trust Fund and the American Red Cross Fund

AN ACT to amend chapter 143, RSMo, by adding thereto two new sections relating to designation of tax refunds to certain funds.

SECTION

A. Enacting clause.
143.1013. American Red Cross trust fund, refund donation to — fund created — director's duties — sunset provision.
143.1017. Developmental disabilities waiting list equity trust fund, refund donation to — fund created — director's duties — sunset provision.

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

SECTION. ENACTING CLAUSE. — Chapter 143, RSMo, is amended by adding thereto two new sections, to be known as sections 143.1013 and 143.1017, to read as follows:

143.1013. AMERICAN RED CROSS TRUST FUND, REFUND DONATION TO — FUND CREATED — DIRECTOR'S DUTIES — SUNSET PROVISION. — 1. For all taxable years beginning on or after January 1, 2011, 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 American Red Cross trust fund. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the 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 the individual or corporation wishes to contribute. Such amounts shall be clearly designated for the fund.

2. There is hereby created in the state treasury the "American Red Cross Trust Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, money in the fund shall be used solely for the administration of this section. Notwithstanding the provisions of section 33.080 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. 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. All moneys credited to the trust fund shall be considered nonstate funds under section 15, article IV, Constitution of Missouri. The treasurer shall distribute all

moneys deposited in the fund at times the treasurer deems appropriate to the American Red Cross.

3. 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 fund. 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 costs of collection and handling by the department of revenue, to the state treasury for deposit to the fund. A contribution designated under this section shall only be deposited in the fund after all other claims against the refund from which such contribution is to be made have been satisfied.

4. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December thirty-first 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 on December thirty-first 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.

143.1017. DEVELOPMENTAL DISABILITIES WAITING LIST EQUITY TRUST FUND, REFUND DONATION TO — FUND CREATED — DIRECTOR'S DUTIES — SUNSET PROVISION. — 1. For all taxable years beginning on or after January 1, 2011, 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 developmental disabilities waiting list equity trust fund. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the 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 the individual or corporation wishes to contribute. Such amounts shall be clearly designated for the fund.

2. There is hereby created in the state treasury the "Developmental Disabilities Waiting List Equity Trust Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, money in the fund shall be used solely for the administration of this section and for providing community services and support to people with developmental disabilities and such person's families who are on the developmental disabilities waiting list and are eligible for but not receiving services. Notwithstanding the provisions of section 33.080 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. 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. All moneys credited to the trust fund shall be considered nonstate funds under section 15, article IV, Constitution of Missouri. The treasurer shall distribute all moneys deposited in the fund at times the treasurer deems appropriate to the department of mental health. The moneys in the developmental disabilities waiting list equity trust fund established in this subsection shall not be appropriated in lieu of general state revenues.

3. 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 fund. 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 costs of collection and handling by the department of revenue, to the state treasury for deposit to the fund. A contribution designated under this section shall only be deposited in the fund after all other claims against the refund from which such contribution is to be made have been satisfied.

4. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December thirty-first 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 on December thirty-first 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 July 12, 2011

HB 641 [SCS HCS HB 641]

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 controlled substances

AN ACT to repeal sections 195.010, 195.017, 195.022, 195.202, and 195.217, RSMo, and to enact in lieu thereof five new sections relating to controlled substances, with an existing penalty provision.

SECTION

A. Enacting clause.
195.010. Definitions.
195.017. Substances, how placed in schedules — list of scheduled substances — publication of schedules annually — electronic log of transactions to be maintained, when — certain products to be located behind pharmacy counter — exemption from requirements, when — rulemaking authority.
195.022. Chemical substances structurally similar to Schedule I controlled substances to be treated as Schedule I controlled substance.
195.202. Possession or control of a controlled substance, exception, penalty.
195.217. Crime of distribution of a controlled substance near a park, penalty.

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

SECTION A. ENACTING CLAUSE. — Sections 195.010, 195.017, 195.022, 195.202, and 195.217, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 195.010, 195.017, 195.022, 195.202, and 195.217, to read as follows:

195.010. DEFINITIONS. — The following words and phrases as used in sections 195.005 to 195.425, unless the context otherwise requires, mean:

(1) "Addict", a person who habitually uses one or more controlled substances to such an extent as to create a tolerance for such drugs, and who does not have a medical need for such drugs, or who is so far addicted to the use of such drugs as to have lost the power of self-control with reference to his addiction;

(2) "Administer", to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(a) A practitioner (or, in his presence, by his authorized agent); or

(b) The patient or research subject at the direction and in the presence of the practitioner;

(3) "Agent", an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. The term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman while acting in the usual and lawful course of the carrier's or warehouseman's business;

(4) "Attorney for the state", any prosecuting attorney, circuit attorney, or attorney general authorized to investigate, commence and prosecute an action under sections 195.005 to 195.425;

(5) "Controlled substance", a drug, substance, or immediate precursor in Schedules I through V listed in sections 195.005 to 195.425;

(6) "Controlled substance analogue", a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(a) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(b) With respect to a particular individual, which that individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II. The term does not include a controlled substance; any substance for which there is an approved new drug application; any substance for which an exemption is in effect for investigational use, for a particular person, under Section 505 of the federal Food, Drug and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to the substance is pursuant to the exemption; or any substance to the extent not intended for human consumption before such an exemption takes effect with respect to the substance;

(7) "Counterfeit substance", a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(8) "Deliver" or "delivery", the actual, constructive, or attempted transfer from one person to another of drug paraphernalia or of a controlled substance, or an imitation controlled substance, whether or not there is an agency relationship, and includes a sale;

(9) "Dentist", a person authorized by law to practice dentistry in this state;

(10) "Depressant or stimulant substance":

(a) A drug containing any quantity of barbituric acid or any of the salts of barbituric acid or any derivative of barbituric acid which has been designated by the United States Secretary of Health and Human Services as habit forming under 21 U.S.C. 352(d);

(b) A drug containing any quantity of:

a. Amphetamine or any of its isomers;

b. Any salt of amphetamine or any salt of an isomer of amphetamine; or

c. Any substance the United States Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system;

(c) Lysergic acid diethylamide; or

(d) Any drug containing any quantity of a substance that the United States Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect;

(11) "Dispense", to deliver a narcotic or controlled dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner including the prescribing,

administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery. "Dispenser" means a practitioner who dispenses;

(12) "Distribute", to deliver other than by administering or dispensing a controlled substance;

(13) "Distributor", a person who distributes;

(14) "Drug":

(a) Substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(c) Substances, other than food, intended to affect the structure or any function of the body of humans or animals; and

(d) Substances intended for use as a component of any article specified in this subdivision. It does not include devices or their components, parts or accessories;

(15) "Drug-dependent person", a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from the use of such substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence;

(16) "Drug enforcement agency", the Drug Enforcement Administration in the United States Department of Justice, or its successor agency;

(17) "Drug paraphernalia", all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or an imitation controlled substance in violation of sections 195.005 to 195.425. It includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or an imitation controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or imitation controlled substances;

(f) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances or imitation controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances or imitation controlled substances;

(i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or imitation controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances;

(k) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances or imitation controlled substances into the human body;

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs;

m. Ice pipes or chillers;

(m) Substances used, intended for use, or designed for use in the manufacture of a controlled substance; In determining whether an object, product, substance or material is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) Statements by an owner or by anyone in control of the object concerning its use;

(b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance or imitation controlled substance;

(c) The proximity of the object, in time and space, to a direct violation of sections 195.005 to 195.425;

(d) The proximity of the object to controlled substances or imitation controlled substances;

(e) The existence of any residue of controlled substances or imitation controlled substances on the object;

(f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of sections 195.005 to 195.425; the innocence of an owner, or of anyone in control of the object, as to direct violation of sections 195.005 to 195.425 shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(g) Instructions, oral or written, provided with the object concerning its use;

(h) Descriptive materials accompanying the object which explain or depict its use;

(i) National or local advertising concerning its use;

(j) The manner in which the object is displayed for sale;

(k) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(l) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

(m) The existence and scope of legitimate uses for the object in the community;

(n) Expert testimony concerning its use;

(o) The quantity, form or packaging of the product, substance or material in relation to the quantity, form or packaging associated with any legitimate use for the product, substance or material;

(18) "Federal narcotic laws", the laws of the United States relating to controlled substances;

(19) "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 consecutive 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;

(20) "Immediate precursor", a substance which:

(a) The state department of health and senior services has found to be and by rule designates as being the principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;

(b) Is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(c) The control of which is necessary to prevent, curtail or limit the manufacture of the controlled substance;

(21) "Imitation controlled substance", a substance that is not a controlled substance, which by dosage unit appearance (including color, shape, size and markings), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In determining whether the substance is an "imitation controlled substance" the court or authority concerned should consider, in addition to all other logically relevant factors, the following:

(a) Whether the substance was approved by the federal Food and Drug Administration for over-the-counter (nonprescription or nonlegend) sales and was sold in the federal Food and Drug Administration approved package, with the federal Food and Drug Administration approved labeling information;

(b) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(c) Whether the substance is packaged in a manner normally used for illicit controlled substances;

(d) Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances or fraud;

(e) The proximity of the substances to controlled substances;

(f) Whether the consideration tendered in exchange for the noncontrolled substance substantially exceeds the reasonable value of the substance considering the actual chemical composition of the substance and, where applicable, the price at which over-the-counter substances of like chemical composition sell. An imitation controlled substance does not include a placebo or registered investigational drug either of which was manufactured, distributed, possessed or delivered in the ordinary course of professional practice or research;

(22) "Laboratory", a laboratory approved by the department of health and senior services as proper to be entrusted with the custody of controlled substances but does not include a pharmacist who compounds controlled substances to be sold or dispensed on prescriptions;

(23) "Manufacture", the production, preparation, propagation, compounding or processing of drug paraphernalia or of a controlled substance, or an imitation controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include the preparation or compounding of a controlled substance or an imitation controlled substance or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance or an imitation controlled substance in the course of his professional practice, or

(b) By a practitioner or his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

(24) "Marijuana", all parts of the plant genus Cannabis in any species or form thereof, including, but not limited to Cannabis Sativa L., Cannabis Indica, Cannabis Americana, Cannabis Ruderalis, and Cannabis Gigantea, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination;

(25) "Methamphetamine precursor drug", any drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers;

(26) "Narcotic drug", any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical analysis:

(a) Opium, opiate, and any derivative, of opium or opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium;

(b) Coca leaves, but not including extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(c) Cocaine or any salt, isomer, or salt of isomer thereof;

(d) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

(e) Any compound, mixture, or preparation containing any quantity of any substance referred to in paragraphs (a) to (d) of this subdivision;

(27) "Official written order", an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the department of health and senior services;

(28) "Opiate", any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes its racemic and levorotatory forms. It does not include, unless specifically controlled under section 195.017, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

(29) "Opium poppy", the plant of the species Papaver somniferum L., except its seeds;

(30) "Over-the-counter sale", a retail sale licensed pursuant to chapter 144 of a drug other than a controlled substance;

(31) "Person", an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity;

(32) "Pharmacist", a licensed pharmacist as defined by the laws of this state, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist; but nothing in sections 195.005 to 195.425 shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this state;

(33) "Poppy straw", all parts, except the seeds, of the opium poppy, after mowing;

(34) "Possessed" or "possessing a controlled substance", a person, with the knowledge of the presence and nature of a substance, has actual or constructive possession of the substance. A person has actual possession if he has the substance on his person or within easy reach and

convenient control. A person who, although not in actual possession, has the power and the intention at a given time to exercise dominion or control over the substance either directly or through another person or persons is in constructive possession of it. Possession may also be sole or joint. If one person alone has possession of a substance possession is sole. If two or more persons share possession of a substance, possession is joint;

(35) "Practitioner", a physician, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by this state to distribute, dispense, conduct research with respect to or administer or to use in teaching or chemical analysis, a controlled substance in the course of professional practice or research in this state, or a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research;

(36) "Production", includes the manufacture, planting, cultivation, growing, or harvesting of drug paraphernalia or of a controlled substance or an imitation controlled substance;

(37) "Registry number", the number assigned to each person registered under the federal controlled substances laws;

(38) "Sale", includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee;

(39) "State" when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America;

(40) **"Synthetic cannabinoid", includes unless specifically excepted or unless listed in another schedule, any natural or synthetic material, compound, mixture, or preparation that contains any quantity of a substance that is a cannabinoid receptor agonist, including but not limited to any substance listed in paragraph (ll) of subdivision (4) of subsection 2 of section 195.017 and any analogues, homologues; isomers, whether optical, positional, or geometric; esters; ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, or salts is possible within the specific chemical designation, however, it shall not include any approved pharmaceutical authorized by the United States Food and Drug Administration;**

(41) "Ultimate user", a person who lawfully possesses a controlled substance or an imitation controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household;

[(41)] **(42)** "Wholesaler", a person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he himself has not produced or prepared, on official written orders, but not on prescriptions.

195.017. SUBSTANCES, HOW PLACED IN SCHEDULES — LIST OF SCHEDULED SUBSTANCES — PUBLICATION OF SCHEDULES ANNUALLY — ELECTRONIC LOG OF TRANSACTIONS TO BE MAINTAINED, WHEN — CERTAIN PRODUCTS TO BE LOCATED BEHIND PHARMACY COUNTER — EXEMPTION FROM REQUIREMENTS, WHEN — RULEMAKING AUTHORITY. — 1. The department of health and senior services shall place a substance in Schedule I if it finds that the substance:

(1) Has high potential for abuse; and

(2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

2. Schedule I:

(1) The controlled substances listed in this subsection are included in Schedule I;

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(a) Acetyl-alpha-methylfentanyl;

(b) Acetylmethadol;
(c) Allylprodine;
(d) Alphacetylmethadol;
(e) Alphameprodine;
(f) Alphamethadol;
(g) Alpha-methylfentanyl;
(h) Alpha-methylthiofentanyl;
(i) Benzethidine;
(j) Betacetylmethadol;
(k) Beta-hydroxyfentanyl;
(l) Beta-hydroxy-3-methylfentanyl;
(m) Betameprodine;
(n) Betamethadol;
(o) Betaprodine;
(p) Clonitazene;
(q) Dextromoramide;
(r) Diampromide;
(s) Diethylthiambutene;
(t) Difenoxin;
(u) Dimenoxadol;
(v) Dimepheptanol;
(w) Dimethylthiambutene;
(x) Dioxaphetyl butyrate;
(y) Dipipanone;
(z) Ethylmethylthiambutene;
(aa) Etonitazene;
(bb) Etoxeridine;
(cc) Furethidine;
(dd) Hydroxypethidine;
(ee) Ketobemidone;
(ff) Levomoramide;
(gg) Levophenacylmorphan;
(hh) 3-Methylfentanyl;
(ii) 3-Methylthiofentanyl;
(jj) Morpheridine;
(kk) MPPP;
(ll) Noracymethadol;
(mm) Norlevorphanol;
(nn) Normethadone;
(oo) Norpipanone;
(pp) Para-fluorofentanyl;
(qq) PEPAP;
(rr) Phenadoxone;
(ss) Phenampromide;
(tt) Phenomorphan;
(uu) Phenoperidine;
(vv) Piritramide;
(ww) Proheptazine;
(xx) Properidine;
(yy) Propiram;
(zz) Racemoramide;
(aaa) Thiofentanyl;

(bbb) Tilidine;

(ccc) Trimeperidine;

(3) Any of the following opium derivatives, their salts, isomers and salts of isomers unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Acetorphine;

(b) Acetyldihydrocodeine;

(c) Benzylmorphine;

(d) Codeine methylbromide;

(e) Codeine-N-Oxide;

(f) Cyprenorphine;

(g) Desomorphine;

(h) Dihydromorphine;

(i) Drotebanol;

(j) Etorphine (except hydrochloride salt);

(k) Heroin;

(l) Hydromorphinol;

(m) Methyldesorphine;

(n) Methyldihydromorphine;

(o) Morphine methylbromide;

(p) Morphine methylsulfonate;

(q) Morphine-N-Oxide;

(r) Myrophine;

(s) Nicocodeine;

(t) Nicomorphine;

(u) Normorphine;

(v) Pholcodine;

(w) Thebacon;

(4) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) 4-bromo-2, 5-dimethoxyamphetamine;

(b) 4-bromo-2, 5-dimethoxyphenethylamine;

(c) 2,5-dimethoxyamphetamine;

(d) 2,5-dimethoxy-4-ethylamphetamine;

(e) 2,5-dimethoxy-4-(n)-propylthiophenethylamine;

(f) 4-methoxyamphetamine;

(g) 5-methoxy-3,4-methylenedioxyamphetamine;

(h) 4-methyl-2, 5-dimethoxyamphetamine;

(i) 3,4-methylenedioxyamphetamine;

(j) 3,4-methylenedioxymethamphetamine;

(k) 3,4-methylenedioxy-N-ethylamphetamine;

(l) N-hydroxy-3, 4-methylenedioxyamphetamine;

(m) 3,4,5-trimethoxyamphetamine;

(n) 5-MeO-DMT or 5-methoxy-N,N-dimethyltryptamine, its isomers, salts, and salts of isomers;

(o) Alpha-ethyltryptamine;

(p) Alpha-methyltryptamine;

(q) Bufotenine;

[(r) Dexanabinol (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloc tan-2-yl)-6a,7,10,10 a-tetrahydrobenzo[c]chromen-1-ol;

(s)] **(r)** Diethyltryptamine;
[(t)] **(s)** Dimethyltryptamine;
[(u)] **(t)** 5-methoxy-N,N-diisopropyltryptamine;
[(v)] **(u)** Ibogaine;
[(w) Indole, or 1-butyl-3(1-naphthoyl)indole;
(x) Indole, or 1-pentyl-3(1-naphthoyl)indole;
(y)] **(v)** Lysergic acid diethylamide;
[(z)] **(w)** Marijuana or marihuana;
[(aa)] **(x)** Mescaline;
[(bb)] **(y)** Parahexyl;
[(cc)] **(z)** Peyote, to include all parts of the plant presently classified botanically as Lophophora Williamsil Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or extracts;
[(dd) Phenol, CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)p henol), where side chain n=5, and homologues where side chain n-4,6, or 7;
(ee)] **(aa)** N-ethyl-3-piperidyl benzilate;
[(ff)] **(bb)** N-methyl-3-piperidyl benzilate;
[(gg)] **(cc)** Psilocybin;
[(hh)] **(dd)** Psilocyn;
[(ii)] **(ee)** Tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:
a. 1 cis or trans tetrahydrocannabinol, and their optical isomers;
b. 6 cis or trans tetrahydrocannabinol, and their optical isomers;
c. 3,4 cis or trans tetrahydrocannabinol, and their optical isomers;
d. Any compounds of these structures, regardless of numerical designation of atomic positions covered;
[(jj)] **(ff)** Ethylamine analog of phencyclidine;
[(kk)] **(gg)** Pyrrolidine analog of phencyclidine;
[(ll)] **(hh)** Thiophene analog of phencyclidine;
[(mm)] **(ii)** 1-[1-(2-thienyl)cyclohexyl]pyrrolidine;
[(nn)] **(jj)** Salvia divinorum;
[(oo)] **(kk)** Salvinorin A;
(ll) Synthetic cannabinoids:
a. Any compound structurally derived from 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Including, but not limited to:
(i) JWH-007, or 1-pentyl-2-methyl-3-(1-naphthoyl)indole;
(ii) JWH-015, or 1-propyl-2-methyl-3-(1-naphthoyl)indole;
(iii) JWH-018, or 1-pentyl-3-(1-naphthoyl)indole;
(iv) JWH-019, or 1-hexyl-3-(1-naphthoyl)indole;
(v) JWH-073, or 1-butyl-3-(1-naphthoyl)indole;
(vi) JWH-081, or 1-pentyl-3-(4-methoxy-1-naphthoyl)indole;
(vii) JWH-098, or 1-pentyl-2-methyl-3-(4-methoxy-1-naphthoyl)indole;
(viii) JWH-122, or 1-pentyl-3-(4-methyl-1-naphthoyl)indole;
(ix) JWH-164, or 1-pentyl-3-(7-methoxy-1-naphthoyl)indole;

(x) JWH-200, or 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl)indole;

(xi) JWH-210, or 1-pentyl-3-(4-ethyl-1-naphthoyl)indole;

(xii) JWH-398, or 1-pentyl-3-(4-chloro-1-naphthoyl)indole;

b. Any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent;

c. Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent;

d. Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent. Including, but not limited to:

(i) JWH-201, or 1-pentyl-3-(4-methoxyphenylacetyl)indole;

(ii) JWH-203, or 1-pentyl-3-(2-chlorophenylacetyl)indole;

(iii) JWH-250, or 1-pentyl-3-(2-methoxyphenylacetyl)indole;

(iv) JWH-251, or 1-pentyl-3-(2-methylphenylacetyl)indole;

(v) RCS-8, or 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole;

e. Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent. Including, but not limited to:

(i) CP 47, 497 & homologues, or 2-[(1R,3S)-3- hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol), where side chain n=5, and homologues where side chain n-4,6, or 7;

f. Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Including, but not limited to:

(i) AM-694, or 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole;

(ii) RCS-4, or 1-pentyl-3-(4-methoxybenzoyl)indole;

g. CP 50,556-1, or [(6S,6aR,9R,10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpe ntan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridi n-1-yl] acetate;

h. HU-210, or (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloc tan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

i. HU-211, or Dexanabinol,(6aS,10aS)-9- (hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)- 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

j. CP 50,556-1, or [(6S,6aR,9R,10aR)-9-hydroxy-6- methyl-3-[(2R)-5-phenylpentan-2-yl]oxy- 5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl] acetate;

k. Dimethylheptylpyran, or DMHP;

(5) Any material, compound, mixture or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Gamma-hydroxybutyric acid;

(b) Mecloqualone;

(c) Methaqualone;

(6) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

(a) Aminorex;

(b) N-benzylpiperazine;

(c) Cathinone;

(d) Fenethylline;

(e) 3-Fluoromethcathinone;

(f) 4-Fluoromethcathinone;

(g) Mephedrone, or 4-methylmethcathinone;

[(e)] **(h)** Methcathinone;

(i) 4-methoxymethcathinone;

[(f)] **(j)** (+,-)cis-4-methylaminorex ((+,-)cis- 4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(k) Methylenedioxypyrovalerone, MDPV, or (1-(1,3- Benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-pentanone;

(l) Methylone, or 3,4-Methylenedioxymethcathinone;

(m) 4-Methyl-alpha-pyrrolidinobutiophenone, or MPBP;

[(g)] **(n)** N-ethylamphetamine;

[(h)] **(o)** N,N-dimethylamphetamine;

(7) A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture or preparation which contains any quantity of the following substances:

(a) N-(1-benzyl-4-piperidyl)-N phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers;

(b) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers;

(8) Khat, to include all parts of the plant presently classified botanically as catha edulis, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seed or extracts.

3. The department of health and senior services shall place a substance in Schedule II if it finds that:

(1) The substance has high potential for abuse;

(2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) The abuse of the substance may lead to severe psychic or physical dependence.

4. The controlled substances listed in this subsection are included in Schedule II:

(1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone and naltrexone, and their respective salts but including the following:

a. Raw opium;

b. Opium extracts;

c. Opium fluid;

d. Powdered opium;

e. Granulated opium;

f. Tincture of opium;

g. Codeine;

h. Ethylmorphine;

i. Etorphine hydrochloride;
j. Hydrocodone;
k. Hydromorphone;
l. Metopon;
m. Morphine;
n. Oxycodone;
o. Oxymorphone;
p. Thebaine;

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy);

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(a) Alfentanil;
(b) Alphaprodine;
(c) Anileridine;
(d) Bezitramide;
(e) Bulk dextropropoxyphene;
(f) Carfentanil;
(g) Dihydrocodeine;
(h) Diphenoxylate;
(i) Fentanyl;
(j) Isomethadone;
(k) Levo-alphacetylmethadol;
(l) Levomethorphan;
(m) Levorphanol;
(n) Metazocine;
(o) Methadone;
(p) Meperidine;
(q) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;
(r) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane — carboxylic acid;
(s) Pethidine (meperidine);
(t) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
(u) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
(v) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperdine-4-carboxylic acid;
(w) Phenazocine;
(x) Piminodine;
(y) Racemethorphan;
(z) Racemorphan;
(aa) Remifentanil;
(bb) Sufentanil;
(cc) Tapentadol;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) Lisdexamfetamine, its salts, isomers, and salts of its isomers;

(c) Methamphetamine, its salts, isomers, and salts of its isomers;

(d) Phenmetrazine and its salts;

(e) Methylphenidate;

(4) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Amobarbital;

(b) Glutethimide;

(c) Pentobarbital;

(d) Phencyclidine;

(e) Secobarbital;

(5) Any material or compound which contains any quantity of nabilone;

(6) Any material, compound, mixture, or preparation which contains any quantity of the following substances:

(a) Immediate precursor to amphetamine and methamphetamine: Phenylacetone;

(b) Immediate precursors to phencyclidine (PCP):

a. 1-phenylcyclohexylamine;

b. 1-piperidinocyclohexanecarbonitrile (PCC);

(7) Any material, compound, mixture, or preparation which contains any quantity of the following alkyl nitrites:

(a) Amyl nitrite;

(b) Butyl nitrite.

5. The department of health and senior services shall place a substance in Schedule III if it finds that:

(1) The substance has a potential for abuse less than the substances listed in Schedules I and II;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

6. The controlled substances listed in this subsection are included in Schedule III:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) Benzphetamine;

(b) Chlorphentermine;

(c) Clortermine;

(d) Phendimetrazine;

(2) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances or salts having a depressant effect on the central nervous system:

(a) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances combined with one or more active medicinal ingredients:

a. Amobarbital;

b. Secobarbital;

c. Pentobarbital;

(b) Any suppository dosage form containing any quantity or salt of the following:

a. Amobarbital;

b. Secobarbital;

c. Pentobarbital;

(c) Any substance which contains any quantity of a derivative of barbituric acid or its salt;

(d) Chlorhexadol;

(e) Embutramide;

(f) Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the federal Food, Drug, and Cosmetic Act;

(g) Ketamine, its salts, isomers, and salts of isomers;

(h) Lysergic acid;

(i) Lysergic acid amide;

(j) Methyprylon;

(k) Sulfondiethylmethane;

(l) Sulfonethylmethane;

(m) Sulfonmethane;

(n) Tiletamine and zolazepam or any salt thereof;

(3) Nalorphine;

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:

(a) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(c) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(e) Not more than 1.8 grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(f) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(g) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth in subdivision (6) of this subsection; buprenorphine;

(6) Anabolic steroids. Any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone) that promotes muscle growth, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this **[**paragraph**]** **subdivision**. Unless specifically excepted or unless listed in another

schedule, any material, compound, mixture or preparation containing any quantity of the following substances, including its salts, esters and ethers:

(a) 3β,17-dihydroxy-5a-androstane;
(b) 3α,17β-dihydroxy-5a-androstane;
(c) 5α-androstan-3,17-dione;
(d) 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene);
(e) 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene);
(f) 4-androstenediol (3β,17β-dihydroxy-androst-4-ene);
(g) 5-androstenediol (3β,17β-dihydroxy-androst-5-ene);
(h) 1-androstenedione ([5α]-androst-1-en-3,17-dione);
(i) 4-androstenedione (androst-4-en-3,17-dione);
(j) 5-androstenedione (androst-5-en-3,17-dione);
(k) Bolasterone (7α, 17α-dimethyl-17β-hydroxyandrost-4-en-3-one);
(l) Boldenone (17β-hydroxyandrost-1,4,-diene-3-one);
(m) Boldione;
(n) Calusterone (7β, 17α-dimethyl-17β-hydroxyandrost-4-en-3-one);
(o) Clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one);
(p) Dehydrochloromethyltestosterone (4-chloro-17β- hydroxy-17α-methyl-androst-1,4-dien-3-one);
(q) Desoxymethyltestosterone;
(r) Δ1-dihydrotestosterone (a.k.a. '1-testosterone')(17β-hydroxy-5α-androst-1-en-3-one);
(s) 4-dihydrotestosterone (17β-hydroxy-androstan-3-one);
(t) Drostanolone (17β-hydroxy-2α-methyl-5α-androstan-3-one);
(u) Ethylestrenol (17α-ethyl-17β-hydroxyestr-4-ene);
(v) Fluoxymesterone (9-fluoro-17α-methyl-11 ,17β-dihydroxyandrost-4-en-3-on e);
(w) Formebolone (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien- 3-one);
(x) Furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan);
(y) 13β-ethyl-17β-hydroxygon-4-en-3-one;
(z) 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one);
(aa) 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one);
(bb) Mestanolone (17α-methyl-17β-hydroxy-5-androstan-3-one);
(cc) Mesterolone (1αmethyl-17β-hydroxy-[5α]-androstan-3-one);
(dd) Methandienone (17α-methyl-17β-hydroxyandrost-1,4-dien-3-one);
(ee) Methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene);
(ff) Methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one);
(gg) 17α-methyl-3β,17β-dihydroxy-5a-androstane);
(hh) 17α-methyl-3α,17β-dihydroxy-5a-androstane);
(ii) 17α-methyl-3β,17β-dihydroxyandrost-4-ene;
(jj) 17α-methyl-4-hydroxynandrolone (17α-methyl-4- hydroxy-17β-hydroxyestr-4-en-3-one);
(kk) Methyldienolone (17α-methyl-17β-hydroxyestra-4,9(10)-dien-3-one);
(ll) Methyltrienolone (17α-methyl-17β-hydroxyestra-4,9-11-trien-3-one);
(mm) Methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one);
(nn) Mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one);
(oo) 17α-methyl-Δ1-dihydrotestosterone (17bβ- hydroxy-17α-methyl-5α-androst-1-en-3-one) (a.k.a. '17-α- methyl-1-testosterone');
(pp) Nandrolone (17β-hydroxyestr-4-ene-3-one);
(qq) 19-nor-4-androstenediol (3β,17β-dihydroxyestr-4-ene);
(rr) 19-nor-4-androstenediol (3α,17β-dihydroxyestr-4-ene);
(ss) 19-nor-4,9(10)-androstadienedione;
(tt) 19-nor-5-androstenediol (3β,17β-dihydroxyestr-5-ene);
(uu) 19-nor-5-androstenediol (3α,17β-dihydroxyestr-5-ene);

(vv) 19-nor-4-androstenedione (estr-4-en-3,17-dione);

(ww) 19-nor-5-androstenedione (estr-5-en-3,17-dione);

(xx) Norbolethone (13β,17α-diethyl-17β-hydroxygon-4-en-3-one);

(yy) Norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one);

(zz) Norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one);

(aaa) Normethandrolone (17α-methyl-17β-hydroxyestr-4-en-3-one);

(bbb) Oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one);

(ccc) Oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one);

(ddd) Oxymethalone (17a-methyl-2-hydroxymethylene- 17β-hydroxy-[5α]-androstan-3-one);

(eee) Stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyraz ole);

(fff) Stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one);

(ggg) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

(hhh) Testosterone (17β-hydroxyandrost-4-en-3-one);

(iii) Tetrahydrogestrinone (13β,17α-diethyl-17β-hydroxygon-4,9,11-trien-3-one);

(jjj) Trenbolone (17β-hydroxyestr-4,9,11-trien-3-one);

(kkk) Any salt, ester, or ether of a drug or substance described or listed in this subdivision, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration;

(7) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product;

(8) The department of health and senior services may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

7. The department of health and senior services shall place a substance in Schedule IV if it finds that:

(1) The substance has a low potential for abuse relative to substances in Schedule III;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

8. The controlled substances listed in this subsection are included in Schedule IV:

(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(a) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane);

(c) Any of the following limited quantities of narcotic drugs or their salts, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(2) Any material, compound, mixture or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Alprazolam;
(b) Barbital;
(c) Bromazepam;
(d) Camazepam;
(e) Chloral betaine;
(f) Chloral hydrate;
(g) Chlordiazepoxide;
(h) Clobazam;
(i) Clonazepam;
(j) Clorazepate;
(k) Clotiazepam;
(l) Cloxazolam;
(m) Delorazepam;
(n) Diazepam;
(o) Dichloralphenazone;
(p) Estazolam;
(q) Ethchlorvynol;
(r) Ethinamate;
(s) Ethyl loflazepate;
(t) Fludiazepam;
(u) Flunitrazepam;
(v) Flurazepam;
(w) Fospropofol;
(x) Halazepam;
(y) Haloxazolam;
(z) Ketazolam;
(aa) Loprazolam;
(bb) Lorazepam;
(cc) Lormetazepam;
(dd) Mebutamate;
(ee) Medazepam;
(ff) Meprobamate;
(gg) Methohexital;
(hh) Methylphenobarbital (mephobarbital);
(ii) Midazolam;
(jj) Nimetazepam;
(kk) Nitrazepam;
(ll) Nordiazepam;
(mm) Oxazepam;
(nn) Oxazolam;
(oo) Paraldehyde;
(pp) Petrichloral;
(qq) Phenobarbital;
(rr) Pinazepam;
(ss) Prazepam;
(tt) Quazepam;
(uu) Temazepam;

(vv) Tetrazepam;
(ww) Triazolam;
(xx) Zaleplon;
(yy) Zolpidem;
(zz) Zopiclone;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible: fenfluramine;

(4) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

(a) Cathine ((+)-norpseudoephedrine);
(b) Diethylpropion;
(c) Fencamfamin;
(d) Fenproporex;
(e) Mazindol;
(f) Mefenorex;
(g) Modafinil;
(h) Pemoline, including organometallic complexes and chelates thereof;
(i) Phentermine;
(j) Pipradrol;
(k) Sibutramine;
(l) SPA ((-)-1-dimethyamino-1,2-diphenylethane);

(5) Any material, compound, mixture or preparation containing any quantity of the following substance, including its salts:

(a) butorphanol;
(b) pentazocine;

(6) Ephedrine, its salts, optical isomers and salts of optical isomers, when the substance is the only active medicinal ingredient;

(7) The department of health and senior services may except by rule any compound, mixture, or preparation containing any depressant substance listed in subdivision (1) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

9. The department of health and senior services shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

10. The controlled substances listed in this subsection are included in Schedule V:

(1) Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(a) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams;

(c) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(2) Any material, compound, mixture or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system including its salts, isomers and salts of isomers: pyrovalerone;

(3) Any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or its salts or optical isomers, or salts of optical isomers or any compound, mixture, or preparation containing any detectable quantity of ephedrine or its salts or optical isomers, or salts of optical isomers;

(4) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(a) Lacosamide;

(b) Pregabalin.

11. If any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section is dispensed, sold, or distributed in a pharmacy without a prescription:

(1) All packages of any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers, shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician; and

(2) Any person purchasing, receiving or otherwise acquiring any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers shall be at least eighteen years of age; and

(3) The pharmacist, intern pharmacist, or registered pharmacy technician shall require any person, prior to their purchasing, receiving or otherwise acquiring such compound, mixture, or preparation to furnish suitable photo identification that is issued by a state or the federal government or a document that, with respect to identification, is considered acceptable and showing the date of birth of the person;

(4) The seller shall deliver the product directly into the custody of the purchaser.

12. Pharmacists, intern pharmacists, and registered pharmacy technicians shall implement and maintain an electronic log of each transaction. Such log shall include the following information:

(1) The name, address, and signature of the purchaser;

(2) The amount of the compound, mixture, or preparation purchased;

(3) The date and time of each purchase; and

(4) The name or initials of the pharmacist, intern pharmacist, or registered pharmacy technician who dispensed the compound, mixture, or preparation to the purchaser.

13. Each pharmacy shall submit information regarding sales of any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section in accordance with transmission methods and frequency established by the department by regulation;

14. No person shall dispense, sell, purchase, receive, or otherwise acquire quantities greater than those specified in this chapter.

15. All persons who dispense or offer for sale pseudoephedrine and ephedrine products in a pharmacy shall ensure that all such products are located only behind a pharmacy counter where the public is not permitted.

16. Any person who knowingly or recklessly violates the provisions of subsections 11 to 15 of this section is guilty of a class A misdemeanor.

17. The scheduling of substances specified in subdivision (3) of subsection 10 of this section and subsections 11, 12, 14, and 15 of this section shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form or to any compound, mixture, or preparation specified in subdivision (3) of subsection 10 of this section which must be dispensed, sold, or distributed in a pharmacy pursuant to a prescription.

18. The manufacturer of a drug product or another interested party may apply with the department of health and senior services for an exemption from this section. The department of health and senior services may grant an exemption by rule from this section if the department finds the drug product is not used in the illegal manufacture of methamphetamine or other controlled or dangerous substances. The department of health and senior services shall rely on reports from law enforcement and law enforcement evidentiary laboratories in determining if the proposed product can be used to manufacture illicit controlled substances.

19. The department of health and senior services shall revise and republish the schedules annually.

20. The department of health and senior services shall promulgate rules under chapter 536 regarding the security and storage of Schedule V controlled substances, as described in subdivision (3) of subsection 10 of this section, for distributors as registered by the department of health and senior services.

21. Logs of transactions required to be kept and maintained by this section and section 195.417 shall create a rebuttable presumption that the person whose name appears in the logs is the person whose transactions are recorded in the logs.

195.022. CHEMICAL SUBSTANCES STRUCTURALLY SIMILAR TO SCHEDULE I CONTROLLED SUBSTANCES TO BE TREATED AS SCHEDULE I CONTROLLED SUBSTANCE. — [A controlled substance analogue shall, to the extent intended for human consumption, be treated, for the purposes of any state law, as a controlled substance in schedule I] **Any analogue or homologue of a Schedule I controlled substance shall be treated, for the purposes of any state law, as a controlled substance in Schedule I**.

195.202. POSSESSION OR CONTROL OF A CONTROLLED SUBSTANCE, EXCEPTION, PENALTY. — 1. Except as authorized by sections 195.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance.

2. Any person who violates this section with respect to any controlled substance except thirty-five grams or less of marijuana[, Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloc tan-2-yl)-6a,7,10,10 a-tetrahydrobenzo[c]chromen-1-ol, Indole, or 1-butyl-3(1-naphthoyl)indole, Indole, or 1-pentyl-3(1-naphthoyl)indole, and Phenol, CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)p henol), where side chain n=5, and homologues where side chain n-4,6, or 7] **or any synthetic cannabinoid** is guilty of a class C felony.

3. Any person who violates this section with respect to not more than thirty-five grams of marijuana [, Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3- (2-methyloctan-2-yl)-6a,7,10,10 a-tetrahydrobenzo[c]chromen-1-ol, Indole, or 1-butyl-3(1-naphthoyl)indole, Indole, or 1-pentyl-3(1-naphthoyl)indole, and Phenol, CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)p henol), where side chain n=5, and homologues where side chain n-4,6, or 7] **or any synthetic cannabinoid** is guilty of a class A misdemeanor.

195.217. CRIME OF DISTRIBUTION OF A CONTROLLED SUBSTANCE NEAR A PARK, PENALTY. — 1. A person commits the offense of distribution of a controlled substance near a park if such person violates section 195.211 by unlawfully distributing or delivering heroin, cocaine, **cocaine base,** LSD, amphetamine, or methamphetamine to a person in or on, or within one thousand feet of, the real property comprising a public park, state park, county park, or

municipal park or a public or private park designed for public recreational purposes, as park is defined in section 253.010.

2. Distribution of a controlled substance near a park is a class A felony.

Approved July 14, 2011

HB 648 [SS#2 HB 648]

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 individuals with disabilities

AN ACT to repeal sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 402.210, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, RSMo, and to enact in lieu thereof eighty-one new sections relating to individuals with disabilities, with existing penalty provisions.

SECTION

A. Enacting clause.
8.241. Certain land in St. Louis City — restrictions.
178.900. Definitions.
189.010. Definitions — funds intended for poor patients — patients that are ineligible.
189.065. Special need areas, expenditures for.
192.005. Department of health and senior services created — division of health abolished — duties.
198.012. Provisions of sections 198.003 to 198.136 not to apply, when — exempt entities may be licensed.
205.968. Facilities authorized — persons to be served, limitations, definitions.
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208.275. Coordinating council on special transportation, creation — members, qualifications, appointment, terms, expenses — staff — powers — duties.
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210.496. Refusal to issue, suspension or revocation of licenses — grounds.
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211.202. Mentally disordered children, evaluation — disposition — review by court.
211.203. Developmentally disabled children, evaluation — disposition — review by court.
211.206. Duties of department of mental health — discharge by department — notice — jurisdiction of court.
211.207. Youth services division may request evaluation — procedure after evaluation — transfer of custody.
211.447. Petition to terminate parental rights filed, when — juvenile court may terminate parental rights, when — investigation to be made — grounds for termination.
402.210. Board of trustees — members, appointment, term, qualifications, expenses — annual accounting — rules and regulations.
453.070. Investigations precondition for adoption — contents of investigation report — how conducted — assessments of adoptive parents, contents — waiving of investigation, when — fees — preference to foster parents, when.
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552.020. Lack of mental capacity bar to trial or conviction — psychiatric examination, when, report of — plea of not guilty by reason of mental disease, supporting pretrial evaluation, conditions of release — commitment to hospital, when — statements of accused inadmissible, when — jury may be impaneled to determine mental fitness.
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552.040. Definitions — acquittal based on mental disease or defect, commitment to state hospital required — immediate conditional release — conditional or unconditional release, when — prior commitment, authority to revoke — applications for release, notice, burden of persuasion, criteria — hearings required, when — denial, reapplication — escape, notice — additional criteria for release.
630.003. Department created — state mental health commission — Missouri institute of mental health — transfers of powers and agencies.
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630.010. Mental health commission — members, terms, qualifications, appointment, vacancies, compensation — organization, meetings.
630.053. Mental health earnings fund — uses — rules and regulations, procedure.
630.095. Copyrights and trademarks by department.
630.097. Comprehensive children's mental health service system to be developed — team established, members, duties — plan to be developed, content — evaluations to be conducted, when.
630.120. No presumptions.
630.165. Suspected abuse of patient, report, by whom made, contents — effect of failure to report — penalty.
630.167. Investigation of report, when made, by whom — abuse prevention by removal, procedure — reports confidential, privileged, exceptions — immunity of reporter, notification — retaliation prohibited — administrative discharge of employee, appeal procedure.
630.183. Officers may authorize medical treatment for patient.
630.192. Limitations on research activities in mental health facilities and programs.
630.210. Charges for pay patients — each facility considered a separate unit — director to determine rules for means test and domicile verification — failure to pay, effect — exceptions, emergency treatment for transients — waiver of means test for certain children, when.
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630.425. Incentive grants authorized — rules and regulations — duration of grants.
630.510. Inventory of facilities — plan for new facilities.
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630.635. Procedure when consent not given — review panel to be named — notice and hearing required — appeal — emergency transfers may be made.
630.705. Rules for standards for facilities and programs for persons affected by mental disorder, mental illness, or developmental disability — classification of facilities and programs — certain facilities and programs not to be licensed.
630.715. Licensing of residential facilities and day programs — fee — affidavit.
630.735. License required.
632.005. Definitions.
632.105. Adults to be accepted for evaluation, when, by whom — may then be admitted to mental health facility — consent required.
632.110. Minors to be accepted for evaluation, when, by whom — may then be admitted to mental health facility — parent or guardian to consent — peace officer may transport to facility, when.
632.115. Juveniles to be admitted by heads of facilities when committed.
632.120. Incompetents to be accepted by heads of facilities upon application — duration of admission for evaluation — consent may be authorized.
632.370. Transfer of patient by department — hearing on transfer of minor to adult ward — consent required — notice to be given — considerations — transfer to federal facility, notice, restrictions.
632.380. Provisions of chapter not to apply to certain persons.
633.005. Definitions.
633.010. Responsibilities, powers, functions and duties of division.
633.020. Advisory council on developmental disabilities — members, number, terms, qualifications, appointment — organization, meetings — duties.
633.029. Definition to determine status of eligibility.
633.030. Department to develop state plan, contents.
633.045. Duties of regional advisory councils — plans.
633.050. Regional councils to review, advise and recommend — duties.
633.110. What services may be provided — consent required, when.
633.115. Entities to be used by regional centers.
633.120. Referral for admission to facility, when — admission or rejection, appeal — consent.

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633.130. Evaluation of residents required — discharge thereafter.
633.135. Refusal of consent for placement or discharge, effect — procedure — department director to make final determination — appeal, procedure — burden of proof.
633.140. Return of absentee, procedure.
633.145. Transfer of patient between facilities by department — notice, consent.
633.150. Transfer of patient to mental health facility by head of developmental disability facility, how.
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633.160. Emergency admission may be made, duration, conditions.
633.180. Cash stipend, eligibility, amount, payment, use — application.
633.185. Family support loan program — interest rate — amount — application — family support loan program fund created.
633.190. Promulgation of rules.
633.210. Office of autism services established, duties — autism spectrum disorder defined.
633.300. Group homes and facilities subject to federal and state law — workers subject to training requirements — rulemaking authority.
633.303. Termination of workers on disqualification registry.
633.309. No transfer to homes or facilities with noncompliance notices.

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

SECTION A. ENACTING CLAUSE. — Sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 402.210, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, RSMo, are repealed and eighty-one new sections enacted in lieu thereof, to be known as sections 8.241, 178.900, 189.010, 189.065, 192.005, 198.012, 205.968, 208.151, 208.275, 208.955, 210.496, 210.900, 211.031, 211.202, 211.203, 211.206, 211.207, 211.447, 402.210, 453.070, 475.121, 475.355, 476.537, 552.015, 552.020, 552.030, 552.040, 630.003, 630.005, 630.010, 630.053, 630.095, 630.097, 630.120, 630.165, 630.167, 630.183, 630.192, 630.210, 630.335, 630.405, 630.425, 630.510, 630.605, 630.610, 630.635, 630.705, 630.715, 630.735, 632.005, 632.105, 632.110, 632.115, 632.120, 632.370, 632.380, 633.005, 633.010, 633.020, 633.029, 633.030, 633.045, 633.050, 633.110, 633.115, 633.120, 633.125, 633.130, 633.135, 633.140, 633.145, 633.150, 633.155, 633.160, 633.180, 633.185, 633.190, 633.210, 633.300, 633.303, and 633.309, to read as follows:

8.241. CERTAIN LAND IN ST. LOUIS CITY — RESTRICTIONS. — 1. In addition to other provisions of law relating to title to and conveyance of real property by the state, and notwithstanding any provisions of chapter 8 to the contrary, if the state should ever purchase or otherwise acquire ownership of real property located in a city not within a county as described in subsection 2 of this section, the state shall:

(1) Use, operate and maintain such property in full compliance with all applicable deed restrictions encumbering the property;

(2) Operate, maintain and use the property exclusively by the department of mental health for the purpose of housing no more than six employed and employable **[**mentally retarded or developmentally disabled**]** adults **with an intellectual disability or developmental disability**, and for no other purpose and by no other state agency, in whole or in part;

(3) Not sell or otherwise transfer ownership of the property, unless such property is sold or transferred solely for private, single-family residential use, which shall not be deemed to include, without limitation, any sale, transfer or conveyance of ownership of the property to any other state agency or department or program.

2. The property subject to the provisions of this section is more particularly described as follows: A parcel of real estate situated in Lot 20 in Block A of Compton Heights and in Block No. 1365 of the City of St. Louis, fronting 100 feet 0-3/8 inches on the North line of Longfellow Boulevard by a depth Northwardly on the east line of a 160 square foot and 159 feet 5 inches on the West line to the North line of said lot on which there is a frontage of 100 feet bounded East by Compton Avenue together with all improvements thereon, known as and numbered 3205 Longfellow Boulevard.

178.900. DEFINITIONS. — For the purposes of sections 178.900 to **[**178.970**] 178.960** the following words mean:

(1) "Department", the department of elementary and secondary education;

(2) "**[**Handicapped**] Disabled** persons", a lower range educable or upper range trainable **[**mentally retarded**] developmentally disabled** or other **[**handicapped**] disabled** person sixteen years of age or over who has had school training and has a productive work capacity in a sheltered environment adapted to the abilities of **[**the mentally retarded**] persons with a developmental disability** but whose limited capabilities make him **or her** nonemployable in competitive business and industry and unsuited for vocational rehabilitation training;

(3) "Sheltered workshop", an occupation-oriented facility operated by a not-for-profit corporation, which, except for its staff, employs only **[**handicapped**]** persons **with disabilities** and has a minimum enrollment of at least fifteen employable **[**handicapped**]** persons **with disabilities**;

(4) "Staff", employees of a sheltered workshop engaged in management, work procurement, purchasing, supervision, sales, bookkeeping, and secretarial and clerical functions.

189.010. DEFINITIONS — FUNDS INTENDED FOR POOR PATIENTS — PATIENTS THAT ARE INELIGIBLE. — 1. As used in sections 189.010 to 189.085, unless the context clearly indicates otherwise, the following terms mean:

(1) "Approved provider", hospitals, clinics, laboratories, or other health personnel or facilities meeting standards to be established under the provisions of sections 189.010 to 189.085;

(2) "Department", the department of social services of the state of Missouri;

(3) "Director", the director of the department of social services of the state of Missouri or his duly authorized representative;

(4) "High risk patient", a woman of childbearing age who has any condition, or is at risk of developing some condition, medically or otherwise known to predispose to premature birth or to produce **[**mental retardation**] developmental disability**; or any infant or child who has any condition, or is at risk of developing some condition, medically known to predispose to **[**mental retardation**] developmental disability**;

(5) "Person", any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States or the state of Missouri;

(6) "Region", contiguous geographic areas of the state larger than single counties where health programs including special services for high risk patients can be developed efficiently and economically;

(7) "Service", any medical, surgical, corrective, diagnostic procedure, or hospitalization, and related activity to correct high risk conditions including all things reasonably incident and necessary to make the service available to the high risk patient;

(8) "Special services", diagnostic and treatment services which may not be efficiently or economically developed as a regular component of a hospital or clinic either because of high cost or infrequent demand but which may be required for high risk patients; such services would include, but not be limited to, intensive care units for the care of premature infants and intra-uterine fetal monitoring.

2. Expenditures for the operation of a hospital include, but are not limited to, amounts paid in connection with inpatient care in the hospital; ambulatory or emergency care provided by the hospital; ambulance services used in the transportation of patients to the hospital or among hospitals; administration of the hospital; maintenance and repairs of the hospital; depreciation of hospital capital assets; food, drugs, equipment and other supplies used by the hospital; and recruitment, selection and training of physician, nursing, allied health and other hospital personnel.

3. Funds approved under the provisions of sections 189.010 to 189.085 are not restricted for paying certain operating costs, or groups of costs, but are intended to supplement the appropriations from the local governmental agency for poor patients. Patients eligible for Medicare, Medicaid and other third party insurance are not eligible under this chapter.

189.065. SPECIAL NEED AREAS, EXPENDITURES FOR. — The department is authorized and directed to work with public and private institutions and agencies or persons to insure that special services will be available in all regions of the state, both rural and metropolitan. Whenever services or special services required for the purposes of sections 189.010 to 189.085 are not available, the department is authorized to use up to ten percent of the funds appropriated for the purposes of sections 189.010 to 189.085 to assist in establishing the facilities and professional staff required. For the purposes of implementing this section, the department and the advisory committees shall give special consideration to those areas of the state or population groups which demonstrate the highest incidence of **[**mental retardation**] developmental disability** or where accessibility to services or special services may be limited because of distance.

192.005. DEPARTMENT OF HEALTH AND SENIOR SERVICES CREATED — DIVISION OF HEALTH ABOLISHED — DUTIES. — There is hereby created and established as a department of state government the "Department of Health and Senior Services". The department of health and senior services shall supervise and manage all public health functions and programs. The department shall be governed by the provisions of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo, unless otherwise provided in sections 192.005 to 192.014. The division of health of the department of social services, chapter 191, this chapter, and others, including, but not limited to, such agencies and functions as the state health planning and development agency, the crippled children's service, chapter 201, the bureau and the program for the prevention of **[**mental retardation**] developmental disability**, the hospital subsidy program, chapter 189, the state board of health, section 191.400, the student loan program, sections 191.500 to 191.550, the family practice residency program, **[**sections 191.575 to 191.590,**]** the licensure and certification of hospitals, chapter 197, the Missouri chest hospital, sections 199.010 to 199.070, are hereby transferred to the department of health and senior services by a type I transfer, and the state cancer center and cancer commission, chapter 200, is hereby transferred to the department of health and senior services by a type III transfer as such transfers are defined in section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section. The division of health of the department of social services is abolished.

198.012. PROVISIONS OF SECTIONS 198.003 TO 198.136 NOT TO APPLY, WHEN — EXEMPT ENTITIES MAY BE LICENSED. — 1. The provisions of sections 198.003 to 198.136 shall not apply to any of the following entities:

(1) Any hospital, facility or other entity operated by the state or the United States;

(2) Any facility or other entity otherwise licensed by the state and operating exclusively under such license and within the limits of such license, unless the activities and services are or are held out as being activities or services normally provided by a licensed facility under sections

198.003 to 198.186, 198.200, 208.030, and 208.159, except hospitals licensed under the provisions of chapter 197;

(3) Any hospital licensed under the provisions of chapter 197, provided that the assisted living facility, intermediate care facility or skilled nursing facility are physically attached to the acute care hospital; and provided further that the department of health and senior services in promulgating rules, regulations and standards pursuant to section 197.080, with respect to such facilities, shall establish requirements and standards for such hospitals consistent with the intent of this chapter, and sections 198.067, 198.070, 198.090, 198.093 and 198.139 to 198.180 shall apply to every assisted living facility, intermediate care facility or skilled nursing facility regardless of physical proximity to any other health care facility;

(4) Any facility licensed pursuant to sections 630.705 to 630.760 which provides care, treatment, habilitation and rehabilitation exclusively to persons who have a primary diagnosis of mental disorder, mental illness, **[**mental retardation**]** or developmental disabilities, as defined in section 630.005;

(5) Any provider of care under a life care contract, except to any portion of the provider's premises on which the provider offers services provided by an intermediate care facility or skilled nursing facility as defined in section 198.006. For the purposes of this section, "provider of care under a life care contract" means any person contracting with any individual to furnish specified care and treatment to the individual for the life of the individual, with significant prepayment for such care and treatment.

2. Nothing in this section shall prohibit any of these entities from applying for a license under sections 198.003 to 198.136.

205.968. FACILITIES AUTHORIZED — PERSONS TO BE SERVED, LIMITATIONS, DEFINITIONS. — 1. As set forth in section 205.971, when a levy is approved by the voters, the governing body of any county or city not within a county of this state shall establish a board of directors. The board of directors shall be a legal entity empowered to establish and/or operate a sheltered workshop as defined in section 178.900, residence facilities, or related services, for the care or employment, or both, of **[**handicapped**]** persons **with a disability**. The facility may operate at one or more locations in the county or city not within a county. Once established, the board may, in its own name engage in and contract for any and all types of services, actions or endeavors, not contrary to the law, necessary to the successful and efficient prosecution and continuation of the business and purposes for which it is created, and may purchase, receive, lease or otherwise acquire, own, hold, improve, use, sell, convey, exchange, transfer, and otherwise dispose of real and personal property, or any interest therein, or other assets wherever situated and may incur liability and may borrow money at rates of interest up to the market rate published by the Missouri division of finance. The board shall be taken and considered as a "political subdivision" as the term is defined in section 70.600 for the purposes of sections 70.600 to 70.755.

2. Services may only be provided for those persons defined as **[**handicapped**]** persons **with a disability** in section 178.900 and those persons defined as **[**handicapped**]** persons **with a disability** in this section whether or not employed at the facility or in the community, and for persons who are **[**handicapped**] disabled** due to developmental disability. Persons having substantial functional limitations due to a mental illness as defined in section 630.005 shall not be eligible for services under the provisions of sections 205.968 to 205.972 except that those persons may participate in services under the provisions of sections 205.968 to 205.972. All persons otherwise eligible for facilities or services under this section shall be eligible regardless of their age; except that, individuals employed in sheltered workshops must be at least sixteen years of age. The board may, in its discretion, impose limitations with respect to individuals to be served and services to be provided. Such limitations shall be reasonable in the light of available funds, needs of the persons and community to be served as assessed by the board, and

the appropriateness and efficiency of combining services to persons with various types of **[**handicaps or**]** disabilities.

3. For the purposes of sections 205.968 to 205.972, the term

(1) "Developmental disability" shall mean either or both paragraph (a) or (b) of this subsection:

(a) A disability which is attributable to mental retardation, cerebral palsy, autism, epilepsy, a learning disability related to a brain dysfunction or a similar condition found by comprehensive evaluation to be closely related to such conditions, or to require habilitation similar to that required for mentally retarded persons; and

a. Which originated before age eighteen; and

b. Which can be expected to continue indefinitely;

(b) A developmental disability as defined in section 630.005;

(2) "**[**Handicapped**]** Person **with a disability**" shall mean a person who is lower range educable or upper range trainable mentally retarded or a person who has a developmental disability.

208.151. MEDICAL ASSISTANCE, PERSONS ELIGIBLE — RULEMAKING AUTHORITY. — 1. Medical assistance on behalf of needy persons shall be known as "MO HealthNet". For the purpose of paying MO HealthNet benefits and to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301, et seq.) as amended, the following needy persons shall be eligible to receive MO HealthNet benefits to the extent and in the manner hereinafter provided:

(1) All participants receiving state supplemental payments for the aged, blind and disabled;

(2) All participants receiving aid to families with dependent children benefits, including all persons under nineteen years of age who would be classified as dependent children except for the requirements of subdivision (1) of subsection 1 of section 208.040. Participants eligible under this subdivision who are participating in drug court, as defined in section 478.001, shall have their eligibility automatically extended sixty days from the time their dependent child is removed from the custody of the participant, subject to approval of the Centers for Medicare and Medicaid Services;

(3) All participants receiving blind pension benefits;

(4) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits under the eligibility standards in effect December 31, 1973, or less restrictive standards as established by rule of the family support division, who are sixty-five years of age or over and are patients in state institutions for mental diseases or tuberculosis;

(5) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children except for the requirements of subdivision (2) of subsection 1 of section 208.040, and who are residing in an intermediate care facility, or receiving active treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as amended;

(6) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children benefits except for the requirement of deprivation of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(7) All persons eligible to receive nursing care benefits;

(8) All participants receiving family foster home or nonprofit private child-care institution care, subsidized adoption benefits and parental school care wherein state funds are used as partial or full payment for such care;

(9) All persons who were participants receiving old age assistance benefits, aid to the permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to meet the eligibility requirements, except income, for these assistance categories, but who are no longer receiving such benefits because of the implementation of Title XVI of the federal Social Security Act, as amended;

(10) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child in the home;

(11) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child who is deprived of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(12) Pregnant women or infants under one year of age, or both, whose family income does not exceed an income eligibility standard equal to one hundred eighty-five percent of the federal poverty level as established and amended by the federal Department of Health and Human Services, or its successor agency;

(13) Children who have attained one year of age but have not attained six years of age who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989). The family support division shall use an income eligibility standard equal to one hundred thirty-three percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency;

(14) Children who have attained six years of age but have not attained nineteen years of age. For children who have attained six years of age but have not attained nineteen years of age, the family support division shall use an income assessment methodology which provides for eligibility when family income is equal to or less than equal to one hundred percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency. As necessary to provide MO HealthNet coverage under this subdivision, the department of social services may revise the state MO HealthNet plan to extend coverage under 42 U.S.C. 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42 U.S.C. 1396a;

(15) The family support division shall not establish a resource eligibility standard in assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The MO HealthNet division shall define the amount and scope of benefits which are available to individuals eligible under each of the subdivisions (12), (13), and (14) of this subsection, in accordance with the requirements of federal law and regulations promulgated thereunder;

(16) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal care shall be made available to pregnant women during a period of presumptive eligibility pursuant to 42 U.S.C. Section 1396r-1, as amended;

(17) A child born to a woman eligible for and receiving MO HealthNet benefits under this section on the date of the child's birth shall be deemed to have applied for MO HealthNet benefits and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of time determined in accordance with applicable federal and state law and regulations so long as the child is a member of the woman's household and either the woman remains eligible for such assistance or for children born on or after January 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon notification of such child's birth, the family support division shall assign a MO HealthNet eligibility identification number to the child so that claims may be submitted and paid under such child's identification number;

(18) Pregnant women and children eligible for MO HealthNet benefits pursuant to subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for MO HealthNet benefits be required to apply for aid to families with dependent children. The family support division shall utilize an application for eligibility for such persons which eliminates information requirements other than those necessary to apply for MO HealthNet benefits. The division shall provide such application forms to applicants whose preliminary income information indicates that they are ineligible for aid to families with dependent children. Applicants for MO HealthNet benefits under subdivision (12), (13) or (14) **of this subsection** shall be informed of the aid to families with dependent children program and that they are

entitled to apply for such benefits. Any forms utilized by the family support division for assessing eligibility under this chapter shall be as simple as practicable;

(19) Subject to appropriations necessary to recruit and train such staff, the family support division shall provide one or more full-time, permanent eligibility specialists to process applications for MO HealthNet benefits at the site of a health care provider, if the health care provider requests the placement of such eligibility specialists and reimburses the division for the expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and equipment, of such eligibility specialists. The division may provide a health care provider with a part-time or temporary eligibility specialist at the site of a health care provider if the health care provider requests the placement of such an eligibility specialist and reimburses the division for the expenses, including but not limited to the salary, benefits, travel, training, telephone, supplies, and equipment, of such an eligibility specialist. The division may seek to employ such eligibility specialists who are otherwise qualified for such positions and who are current or former welfare participants. The division may consider training such current or former welfare participants as eligibility specialists for this program;

(20) Pregnant women who are eligible for, have applied for and have received MO HealthNet benefits under subdivision (2), (10), (11) or (12) of this subsection shall continue to be considered eligible for all pregnancy-related and postpartum MO HealthNet benefits provided under section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy;

(21) Case management services for pregnant women and young children at risk shall be a covered service. To the greatest extent possible, and in compliance with federal law and regulations, the department of health and senior services shall provide case management services to pregnant women by contract or agreement with the department of social services through local health departments organized under the provisions of chapter 192 or chapter 205 or a city health department operated under a city charter or a combined city-county health department or other department of health and senior services designees. To the greatest extent possible the department of social services and the department of health and senior services shall mutually coordinate all services for pregnant women and children with the crippled children's program, the prevention of **[**mental retardation**] intellectual disability and developmental disability** program and the prenatal care program administered by the department of health and senior services. The department of social services shall by regulation establish the methodology for reimbursement for case management services provided by the department of health and senior services. For purposes of this section, the term "case management" shall mean those activities of local public health personnel to identify prospective MO HealthNet-eligible high-risk mothers and enroll them in the state's MO HealthNet program, refer them to local physicians or local health departments who provide prenatal care under physician protocol and who participate in the MO HealthNet program for prenatal care and to ensure that said high-risk mothers receive support from all private and public programs for which they are eligible and shall not include involvement in any MO HealthNet prepaid, case-managed programs;

(22) By January 1, 1988, the department of social services and the department of health and senior services shall study all significant aspects of presumptive eligibility for pregnant women and submit a joint report on the subject, including projected costs and the time needed for implementation, to the general assembly. The department of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation promulgated pursuant to chapter 207;

(23) All participants who would be eligible for aid to families with dependent children benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

(24) (a) All persons who would be determined to be eligible for old age assistance benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as

authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized by annual appropriation;

(b) All persons who would be determined to be eligible for aid to the blind benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005, except that less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), shall be used to raise the income limit to one hundred percent of the federal poverty level;

(c) All persons who would be determined to be eligible for permanent and total disability benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. 1396a(f); or less restrictive methodologies as contained in the MO HealthNet state plan as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if authorized by annual appropriations. Eligibility standards for permanent and total disability benefits shall not be limited by age;

(25) Persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of presumptive eligibility in accordance with 42 U.S.C. 1396r-1;

(26) Persons who are independent foster care adolescents, as defined in 42 U.S.C. Section 1396d, or who are within reasonable categories of such adolescents who are under twenty-one years of age as specified by the state, are eligible for coverage under 42 U.S.C. Section 1396a (a)(10)(A)(ii)(XVII) without regard to income or assets.

2. Rules and regulations to implement this section shall be promulgated in accordance with section 431.064 and chapter 536. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of the last six months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for MO HealthNet benefits for four calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of income and resource limitation. After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of the six months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of employment or income from employment of the caretaker relative, shall remain eligible for MO HealthNet benefits for six calendar months following the month of such ineligibility as long as such family includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical assistance during the entire six-month period described in this section and which meets reporting requirements and income tests established by the division and continues to include a child as provided in 42 U.S.C. 1396r-6 shall receive MO HealthNet benefits without fee for an additional six months. The MO HealthNet division may provide by rule and as authorized by annual appropriation the scope of MO HealthNet coverage to be granted to such families.

4. When any individual has been determined to be eligible for MO HealthNet benefits, such medical assistance will be made available to him or her for care and services furnished in or after the third month before the month in which he made application for such assistance if such individual was, or upon application would have been, eligible for such assistance at the time

such care and services were furnished; provided, further, that such medical expenses remain unpaid.

5. The department of social services may apply to the federal Department of Health and Human Services for a MO HealthNet waiver amendment to the Section 1115 demonstration waiver or for any additional MO HealthNet waivers necessary not to exceed one million dollars in additional costs to the state, unless subject to appropriation or directed by statute, but in no event shall such waiver applications or amendments seek to waive the services of a rural health clinic or a federally qualified health center as defined in 42 U.S.C. 1396d(l)(1) and (2) or the payment requirements for such clinics and centers as provided in 42 U.S.C. 1396a(a)(15) and 1396a(bb) unless such waiver application is approved by the oversight committee created in section 208.955. A request for such a waiver so submitted shall only become effective by executive order not sooner than ninety days after the final adjournment of the session of the general assembly to which it is submitted, unless it is disapproved within sixty days of its submission to a regular session by a senate or house resolution adopted by a majority vote of the respective elected members thereof, unless the request for such a waiver is made subject to appropriation or directed by statute.

6. Notwithstanding any other provision of law to the contrary, in any given fiscal year, any persons made eligible for MO HealthNet benefits under subdivisions (1) to (22) of subsection 1 of this section shall only be eligible if annual appropriations are made for such eligibility. This subsection shall not apply to classes of individuals listed in 42 U.S.C. Section 1396a(a)(10)(A)(i).

208.275. COORDINATING COUNCIL ON SPECIAL TRANSPORTATION, CREATION — MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, EXPENSES — STAFF — POWERS — DUTIES. — 1. As used in this section, unless the context otherwise indicates, the following terms mean:

(1) "Elderly", any person who is sixty years of age or older;

(2) "**[**Handicapped**]** **Person with a disability**", any person having a physical or mental condition, either permanent or temporary, which would substantially impair ability to operate or utilize available transportation.

2. There is hereby created the "Coordinating Council on Special Transportation" within the Missouri department of transportation. The members of the council shall be: two members of the senate appointed by the president pro tem, who shall be from different political parties; two members of the house of representatives appointed by the speaker, who shall be from different political parties; the assistant for transportation of the Missouri department of transportation, or his designee; the assistant commissioner of the department of elementary and secondary education, responsible for special transportation, or his designee; the director of the division of aging of the department of social services, or his designee; the deputy director for **[**mental retardation**]** developmental disabilities and the deputy director for administration of the department of mental health, or their designees; the executive secretary of the governor's committee on the employment of the **[**handicapped**]** **persons with a disability**; and seven consumer representatives appointed by the governor by and with the advice and consent of the senate, four of the consumer representatives shall represent the elderly and three shall represent **[**the handicapped**]** **persons with a disability**. Two of such three members representing **[**handicapped**]** persons **with a disability** shall represent those with physical **[**handicaps**]** **disabilities**. Consumer representatives appointed by the governor shall serve for terms of three years or until a successor is appointed and qualified. Of the members first selected, two shall be selected for a term of three years, two shall be selected for a term of two years, and three shall be selected for a term of one year. In the event of the death or resignation of any member, his successor shall be appointed to serve for the unexpired period of the term for which such member had been appointed.

3. State agency personnel shall serve on the council without additional appropriations or compensation. The consumer representatives shall serve without compensation except for receiving reimbursement for the reasonable and necessary expenses incurred in the performance of their duties on the council from funds appropriated to the department of transportation. Legislative members shall be reimbursed by their respective appointing bodies out of the contingency fund for such body for necessary expenses incurred in the performance of their duties.

4. Staff for the council shall be provided by the Missouri department of transportation. The department shall designate a special transportation coordinator who shall have had experience in the area of special transportation, as well as such other staff as needed to enable the council to perform its duties.

5. The council shall meet at least quarterly each year and shall elect from its members a chairman and a vice chairman.

6. The coordinating council on special transportation shall:

(1) Recommend and periodically review policies for the coordinated planning and delivery of special transportation when appropriate;

(2) Identify special transportation needs and recommend agency funding allocations and resources to meet these needs when appropriate;

(3) Identify legal and administrative barriers to effective service delivery;

(4) Review agency methods for distributing funds within the state and make recommendations when appropriate;

(5) Review agency funding criteria and make recommendations when appropriate;

(6) Review area transportation plans and make recommendations for plan format and content;

(7) Establish measurable objectives for the delivery of transportation services;

(8) Review annual performance data and make recommendations for improved service delivery, operating procedures or funding when appropriate;

(9) Review local disputes and conflicts on special transportation and recommend solutions.

208.955. COMMITTEE ESTABLISHED, MEMBERS, DUTIES — ISSUANCE OF FINDINGS — SUBCOMMITTEE DESIGNATED, DUTIES, MEMBERS. — 1. There is hereby established in the department of social services the "MO HealthNet Oversight Committee", which shall be appointed by January 1, 2008, and shall consist of **[**eighteen**] nineteen** members as follows:

(1) Two members of the house of representatives, one from each party, appointed by the speaker of the house of representatives and the minority floor leader of the house of representatives;

(2) Two members of the Senate, one from each party, appointed by the president pro tem of the senate and the minority floor leader of the senate;

(3) One consumer representative **who has no financial interest in the health care industry and who has not been an employee of the state within the last five years**;

(4) Two primary care physicians, licensed under chapter 334, **[**recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state,**]** who care for participants, not from the same geographic area**, chosen in the same manner as described in section 334.120**;

(5) Two physicians, licensed under chapter 334, who care for participants but who are not primary care physicians and are not from the same geographic area, **[**recommended by any Missouri organization or association that represents a significant number of physicians licensed in this state**] chosen in the same manner as described in section 334.120**;

(6) One representative of the state hospital association;

(7) **[**One**] Two** nonphysician health care **[**professional**] professionals, the first nonphysician health care professional licensed under chapter 335 and the second nonphysician health care professional licensed under chapter 337,** who **[**cares**] care** for

participants**[**, recommended by the director of the department of insurance, financial institutions and professional registration**]**;

(8) One dentist, who cares for participants**[**. The dentist shall be recommended by any Missouri organization or association that represents a significant number of dentists licensed in this state**] , chosen in the same manner as described in section 332.021**;

(9) Two patient advocates **who have no financial interest in the health care industry and who have not been employees of the state within the last five years**;

(10) One public member **who has no financial interest in the health care industry and who has not been an employee of the state within the last five years**; and

(11) The directors of the department of social services, the department of mental health, the department of health and senior services, or the respective directors' designees, who shall serve as ex-officio members of the committee.

2. The members of the oversight committee, other than the members from the general assembly and ex-officio members, shall be appointed by the governor with the advice and consent of the senate. A chair of the oversight committee shall be selected by the members of the oversight committee. Of the members first appointed to the oversight committee by the governor, eight members shall serve a term of two years, seven members shall serve a term of one year, and thereafter, members shall serve a term of two years. Members shall continue to serve until their successor is duly appointed and qualified. Any vacancy on the oversight committee shall be filled in the same manner as the original appointment. Members shall serve on the oversight committee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of social services for that purpose. The department of social services shall provide technical, actuarial, and administrative support services as required by the oversight committee. The oversight committee shall:

(1) Meet on at least four occasions annually, including at least four before the end of December of the first year the committee is established. Meetings can be held by telephone or video conference at the discretion of the committee;

(2) Review the participant and provider satisfaction reports and the reports of health outcomes, social and behavioral outcomes, use of evidence-based medicine and best practices as required of the health improvement plans and the department of social services under section 208.950;

(3) Review the results from other states of the relative success or failure of various models of health delivery attempted;

(4) Review the results of studies comparing health plans conducted under section 208.950;

(5) Review the data from health risk assessments collected and reported under section 208.950;

(6) Review the results of the public process input collected under section 208.950;

(7) Advise and approve proposed design and implementation proposals for new health improvement plans submitted by the department, as well as make recommendations and suggest modifications when necessary;

(8) Determine how best to analyze and present the data reviewed under section 208.950 so that the health outcomes, participant and provider satisfaction, results from other states, health plan comparisons, financial impact of the various health improvement plans and models of care, study of provider access, and results of public input can be used by consumers, health care providers, and public officials;

(9) Present significant findings of the analysis required in subdivision (8) of this subsection in a report to the general assembly and governor, at least annually, beginning January 1, 2009;

(10) Review the budget forecast issued by the legislative budget office, and the report required under subsection (22) of subsection 1 of section 208.151, and after study:

(a) Consider ways to maximize the federal drawdown of funds;

(b) Study the demographics of the state and of the MO HealthNet population, and how those demographics are changing;

(c) Consider what steps are needed to prepare for the increasing numbers of participants as a result of the baby boom following World War II;

(11) Conduct a study to determine whether an office of inspector general shall be established. Such office would be responsible for oversight, auditing, investigation, and performance review to provide increased accountability, integrity, and oversight of state medical assistance programs, to assist in improving agency and program operations, and to deter and identify fraud, abuse, and illegal acts. The committee shall review the experience of all states that have created a similar office to determine the impact of creating a similar office in this state; and

(12) Perform other tasks as necessary, including but not limited to making recommendations to the division concerning the promulgation of rules and emergency rules so that quality of care, provider availability, and participant satisfaction can be assured.

3. By July 1, 2011, the oversight committee shall issue findings to the general assembly on the success and failure of health improvement plans and shall recommend whether or not any health improvement plans should be discontinued.

4. The oversight committee shall designate a subcommittee devoted to advising the department on the development of a comprehensive entry point system for long-term care that shall:

(1) Offer Missourians an array of choices including community-based, in-home, residential and institutional services;

(2) Provide information and assistance about the array of long-term care services to Missourians;

(3) Create a delivery system that is easy to understand and access through multiple points, which shall include but shall not be limited to providers of services;

(4) Create a delivery system that is efficient, reduces duplication, and streamlines access to multiple funding sources and programs;

(5) Strengthen the long-term care quality assurance and quality improvement system;

(6) Establish a long-term care system that seeks to achieve timely access to and payment for care, foster quality and excellence in service delivery, and promote innovative and cost-effective strategies; and

(7) Study one-stop shopping for seniors as established in section 208.612.

5. The subcommittee shall include the following members:

(1) The lieutenant governor or his or her designee, who shall serve as the subcommittee chair;

(2) One member from a Missouri area agency on aging, designated by the governor;

(3) One member representing the in-home care profession, designated by the governor;

(4) One member representing residential care facilities, predominantly serving MO HealthNet participants, designated by the governor;

(5) One member representing assisted living facilities or continuing care retirement communities, predominantly serving MO HealthNet participants, designated by the governor;

(6) One member representing skilled nursing facilities, predominantly serving MO HealthNet participants, designated by the governor;

(7) One member from the office of the state ombudsman for long-term care facility residents, designated by the governor;

(8) One member representing Missouri centers for independent living, designated by the governor;

(9) One consumer representative with expertise in services for seniors or **[**the disabled**]** **persons with a disability**, designated by the governor;

(10) One member with expertise in Alzheimer's disease or related dementia;

(11) One member from a county developmental disability board, designated by the governor;

(12) One member representing the hospice care profession, designated by the governor;

(13) One member representing the home health care profession, designated by the governor;

(14) One member representing the adult day care profession, designated by the governor;

(15) One member gerontologist, designated by the governor;

(16) Two members representing the aged, blind, and disabled population, not of the same geographic area or demographic group designated by the governor;

(17) The directors of the departments of social services, mental health, and health and senior services, or their designees; and

(18) One member of the house of representatives and one member of the senate serving on the oversight committee, designated by the oversight committee chair.

Members shall serve on the subcommittee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of health and senior services for that purpose. The department of health and senior services shall provide technical and administrative support services as required by the committee.

6. By October 1, 2008, the comprehensive entry point system subcommittee shall submit its report to the governor and general assembly containing recommendations for the implementation of the comprehensive entry point system, offering suggested legislative or administrative proposals deemed necessary by the subcommittee to minimize conflict of interests for successful implementation of the system. Such report shall contain, but not be limited to, recommendations for implementation of the following consistent with the provisions of section 208.950:

(1) A complete statewide universal information and assistance system that is integrated into the web-based electronic patient health record that can be accessible by phone, in-person, via MO HealthNet providers and via the Internet that connects consumers to services or providers and is used to establish consumers' needs for services. Through the system, consumers shall be able to independently choose from a full range of home, community-based, and facility-based health and social services as well as access appropriate services to meet individual needs and preferences from the provider of the consumer's choice;

(2) A mechanism for developing a plan of service or care via the web-based electronic patient health record to authorize appropriate services;

(3) A preadmission screening mechanism for MO HealthNet participants for nursing home care;

(4) A case management or care coordination system to be available as needed; and

(5) An electronic system or database to coordinate and monitor the services provided which are integrated into the web-based electronic patient health record.

7. Starting July 1, 2009, and for three years thereafter, the subcommittee shall provide to the governor, lieutenant governor and the general assembly a yearly report that provides an update on progress made by the subcommittee toward implementing the comprehensive entry point system.

8. The provisions of section 23.253 shall not apply to sections 208.950 to 208.955.

210.496. REFUSAL TO ISSUE, SUSPENSION OR REVOCATION OF LICENSES — GROUNDS. — The division may refuse to issue either a license or a provisional license to an applicant, or may suspend or revoke the license or provisional license of a licensee, who:

(1) Fails consistently to comply with the applicable provisions of sections 208.400 to 208.535 and the applicable rules promulgated thereunder;

(2) Violates any of the provisions of its license;

(3) Violates state laws or rules relating to the protection of children;

(4) Furnishes or makes any misleading or false statements or reports to the division;

(5) Refuses to submit to the division any reports or refuses to make available to the division any records required by the division in making an investigation;

(6) Fails or refuses to admit authorized representatives of the division at any reasonable time for the purpose of investigation;

(7) Fails or refuses to submit to an investigation by the division;

(8) Fails to provide, maintain, equip, and keep in safe and sanitary condition the premises established or used for the care of children being served, as required by law, rule, or ordinance applicable to the location of the foster home or residential care facility; or

(9) Fails to provide financial resources adequate for the satisfactory care of and services to children being served and the upkeep of the premises.

Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of an applicant. The disability or disease of an applicant shall not constitute a basis for a determination that the applicant is unfit or not suitable to be a foster parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child or an inability to perform the duties of a foster parent.

210.900. DEFINITIONS. — 1. Sections 210.900 to 210.936 shall be known and may be cited as the "Family Care Safety Act".

2. As used in sections 210.900 to 210.936, the following terms shall mean:

(1) "Child-care provider", any licensed or license-exempt child-care home, any licensed or license-exempt child-care center, child-placing agency, residential care facility for children, group home, foster family group home, foster family home, employment agency that refers a child-care worker to parents or guardians as defined in section 289.005. The term "child-care provider" does not include summer camps or voluntary associations designed primarily for recreational or educational purposes;

(2) "Child-care worker", any person who is employed by a child-care provider, or receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for child-care services;

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

(4) "Elder-care provider", any operator licensed pursuant to chapter 198 or any person, corporation, or association who provides in-home services under contract with the division of aging, or any employer of nurses or nursing assistants of home health agencies licensed pursuant to sections 197.400 to 197.477, or any nursing assistants employed by a hospice pursuant to sections 197.250 to 197.280, or that portion of a hospital for which subdivision (3) of subsection 1 of section 198.012 applies;

(5) "Elder-care worker", any person who is employed by an elder-care provider, or who receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for elder-care services;

(6) "Employer", any child-care provider, elder-care provider, or personal-care provider as defined in this section;

(7) "Mental health provider", any **[**mental retardation**] developmental disability** facility or group home as defined in section 633.005;

(8) "Mental health worker", any person employed by a mental health provider to provide personal care services and supports;

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

(10) "Personal-care attendant" or "personal-care worker", a person who performs routine services or supports necessary for a person with a physical or mental disability to enter and maintain employment or to live independently;

(11) "Personal-care provider", any person, corporation, or association who provides personal-care services or supports under contract with the department of mental health, the division of aging, the department of health and senior services or the department of elementary and secondary education;

(12) "Related child care", child care provided only to a child or children by such child's or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence separate from the child or children;

(13) "Related elder care", care provided only to an elder by an adult child, a spouse, a grandchild, a great-grandchild or a sibling of such elder.

211.031. JUVENILE COURT TO HAVE EXCLUSIVE JURISDICTION, WHEN — EXCEPTIONS — HOME SCHOOLING, ATTENDANCE VIOLATIONS, HOW TREATED. — 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, and except that the juvenile court shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall have

concurrent jurisdiction with the circuit court on any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570 with the consent of the receiving court;

(5) Upon motion of any child or person seventeen years of age or his or her parent, the court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court Rules;

(6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

4. When an investigation by a juvenile officer pursuant to this section reveals that the only basis for action involves an alleged violation of section 167.031 involving a child who alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child to verify that the child is being home schooled and not in violation of section 167.031 before making a report of such a violation. Any report of a violation of section 167.031 made by a juvenile officer regarding a child who is being home schooled shall be made to the prosecuting attorney of the county where the child legally resides.

5. The disability or disease of a parent shall not constitute a basis for a determination that a child is a child in need of care or for the removal of custody of a child from the parent without a specific showing that there is a causal relation between the disability or disease and harm to the child.

211.202. MENTALLY DISORDERED CHILDREN, EVALUATION — DISPOSITION — REVIEW BY COURT. — 1. If a child under the jurisdiction of the juvenile court appears to be mentally disordered, other than **[**mentally retarded or**] intellectually disabled or** developmentally disabled, the court, on its own motion or on the motion or petition of any interested party, may order the department of mental health to evaluate the child.

2. A mental health facility designated by the department of mental health shall perform within twenty days an evaluation of the child, on an outpatient basis if practicable, for the purpose of determining whether inpatient admission is appropriate because the following criteria are met:

(1) The child has a mental disorder other than mental retardation or developmental disability, as all these terms are defined in chapter 630;

(2) The child requires inpatient care and treatment for the protection of himself or others;

(3) A mental health facility offers a program suitable for the child's needs;

(4) A mental health facility is the least restrictive environment as the term "least restrictive environment" is defined in chapter 630.

3. If the facility determines, as a result of the evaluation, that it is appropriate to admit the child as an inpatient, the head of the mental health facility, or his designee, shall recommend the child for admission, subject to the availability of suitable accommodations, and send the juvenile court notice of the recommendation and a copy of the evaluation. Should the department evaluation recommend inpatient care, the child, his parent, guardian or counsel shall have the right to request an independent evaluation of the child. Within twenty days of the receipt of the notice and evaluation by the facility, or within twenty days of the receipt of the notice and evaluation from the independent examiner, the court may order, pursuant to a hearing, the child committed to the custody of the department of mental health for inpatient care and treatment, or may otherwise dispose of the matter; except, that no child shall be committed to a mental health facility under this section for other than care and treatment.

4. If the facility determines, as a result of the evaluation, that inpatient admission is not appropriate, the head of the mental health facility, or his designee, shall not recommend the child for admission as an inpatient. The head of the facility, or his designee, shall send to the court a notice that inpatient admission is not appropriate, along with a copy of the evaluation, within twenty days of completing the evaluation. If the child was evaluated on an inpatient basis, the juvenile court shall transfer the child from the department of mental health within twenty days of receipt of the notice and evaluation or set the matter for hearing within twenty days, giving notice of the hearing to the director of the facility as well as all others required by law.

5. If at any time the facility determines that it is no longer appropriate to provide inpatient care and treatment for the child committed by the juvenile court, but that such child appears to qualify for placement under section 630.610, the head of the facility shall refer such child for placement. Subject to the availability of an appropriate placement, the department of mental health shall place any child who qualifies for placement under section 630.610. If no appropriate placement is available, the department of mental health shall discharge the child or make such other arrangements as it may deem appropriate and consistent with the child's welfare and safety. Notice of the placement or discharge shall be sent to the juvenile court which first ordered the child's detention.

6. The committing juvenile court shall conduct an annual review of the child's need for continued placement in the mental health facility.

211.203. DEVELOPMENTALLY DISABLED CHILDREN, EVALUATION — DISPOSITION — REVIEW BY COURT. — 1. If a child under the jurisdiction of the juvenile court appears to be mentally retarded or developmentally disabled, as these terms are defined in chapter 630, the court, on its own motion or on the motion or petition of any interested party, may order the department of mental health to evaluate the child.

2. A regional center designated by the department of mental health shall perform within twenty days a comprehensive evaluation, as defined in chapter 633, on an outpatient basis if practicable, for the purpose of determining the appropriateness of a referral to a **[**mental retardation**] developmental disability** facility operated or funded by the department of mental health. If it is determined by the regional center, as a result of the evaluation, to be appropriate to refer such child to a department **[**mental retardation**] developmental disability** facility under section 633.120 or a private **[**mental retardation**] developmental disability** facility under section 630.610, the regional center shall refer the evaluation to the appropriate **[**mental retardation**] developmental disability** facility.

3. If, as a result of reviewing the evaluation, the head of the **[**mental retardation**] developmental disability** facility, or his designee, determines that it is appropriate to admit such child as a resident, the head of the **[**mental retardation**] developmental disability** facility, or his **or her** designee, shall recommend the child for admission, subject to availability of suitable accommodations. The head of the regional center, or his designee, shall send the juvenile court notice of the recommendation for admission by the **[**mental retardation**] developmental disability** facility and a copy of the evaluation. Should the department evaluation recommend residential care and habilitation, the child, his parent, guardian or counsel shall have the right to request an independent evaluation of the child. Within twenty days of receipt of the notice and evaluation from the facility, or within twenty days of the receipt of the notice and evaluation from the independent examiner, the court may order, pursuant to a hearing, the child committed to the custody of the department of mental health for residential care and habilitation, or may otherwise dispose of the matter; except, that no child shall be committed to the department of mental health for other than residential care and habilitation. If the department proposes placement at, or transferring the child to, a department facility other than that designated in the order of the juvenile court, the department shall conduct a due process hearing within six days of such placement or transfer during which the head of the initiating facility shall have the burden to show that the placement or transfer is appropriate for the medical needs of the child. The head of the facility shall notify the court ordering detention or commitment and the child's last known attorney of record of such placement or transfer.

4. If, as a result of the evaluation, the regional center determines that it is not appropriate to admit such child as a resident in a **[**mental retardation**] developmental disability** facility, the regional center shall send a notice to the court that it is inappropriate to admit such child, along with a copy of the evaluation. If the child was evaluated on a residential basis, the juvenile court shall transfer the child from the department within five days of receiving the notice and evaluation or set the matter for hearing within twenty days, giving notice of the hearing to the director of the facility as well as all others required by law.

5. If at any time the **[**mental retardation**] developmental disability** facility determines that it is no longer appropriate to provide residential habilitation for the child committed by the juvenile court, but that such child appears to qualify for placement under section 630.610, the head of the facility shall refer such child for placement. Subject to the availability of an appropriate placement, the department shall place any child who qualifies for placement under section 630.610. If no appropriate placement is available, the department shall discharge the child or make such other arrangements as it may deem appropriate and consistent with the child's welfare and safety. Notice of the placement or discharge shall be sent to the juvenile court which first ordered the child's detention.

6. The committing court shall conduct an annual review of the child's need for continued placement at the **[**mental retardation**] developmental disability** facility.

211.206. DUTIES OF DEPARTMENT OF MENTAL HEALTH — DISCHARGE BY DEPARTMENT — NOTICE — JURISDICTION OF COURT. — 1. For each child committed to the department of mental health by the juvenile court, the director of the department of mental health, or his designee, shall prepare an individualized treatment or habilitation plan, as defined in

chapter 630, within thirty days of the admission for treatment or habilitation. The status of each child shall be reviewed at least once every thirty days. Copies of all individualized treatment plans, habilitation plans, and periodic reviews shall be sent to the committing juvenile court.

2. The department of mental health shall discharge a child committed to it by the juvenile court pursuant to sections 211.202 and 211.203 if the head of a mental health facility or **[**mental retardation**] developmental disability** facility, or his designee, determines, in an evaluation or a periodic review, that any of the following conditions are true:

(1) A child committed to a mental health facility no longer has a mental disorder other than **[**mental retardation**] intellectual disability** or developmental disability;

(2) A child committed to a **[**mental retardation**] developmental disability** facility is not **[**mentally retarded**] intellectually disabled** or developmentally disabled;

(3) The condition of the child is no longer such that, for the protection of the child or others, the child requires inpatient hospitalization or residential habilitation;

(4) The mental health facility or **[**mental retardation**] developmental disability** facility does not offer a program which best meets the child's needs;

(5) The mental health facility or **[**mental retardation**] developmental disability** facility does not provide the least restrictive environment, as defined in section 630.005, which is consistent with the child's welfare and safety.

3. If the committing court specifically retained jurisdiction of the child by the terms of its order committing the child to the department of mental health, notice of the discharge, accompanied by a diagnosis and recommendations for placement of the child, shall be forwarded to the court at least twenty days before such discharge date. Unless within twenty days of receipt of notice of discharge the juvenile court orders the child to be brought before it for appropriate proceedings, jurisdiction of that court over the child shall terminate at the end of such twenty days.

211.207. YOUTH SERVICES DIVISION MAY REQUEST EVALUATION — PROCEDURE AFTER EVALUATION — TRANSFER OF CUSTODY. — 1. If a child is committed to the division of youth services and subsequently appears to be mentally disordered, as defined in chapter 630, the division shall refer the child to the department of mental health for evaluation. The evaluation shall be performed within twenty days by a mental health facility or regional center operated by the department of mental health and, if practicable, on an outpatient basis, for the purpose of determining whether inpatient care at a mental health facility or residential habilitation in a **[**mental retardation**] developmental disability** facility is appropriate because the child meets the criteria specified in subsection 2 of section 211.202 or in section 633.120, respectively.

2. If, as a result of the evaluation, the director of the department of mental health, or his designee, determines that the child is not mentally disordered so as to require inpatient care and treatment in a mental health facility or residential habilitation in a **[**mental retardation**] developmental disability** facility, the director, or his designee, shall so notify the director of the division of youth services. If the child was evaluated on an inpatient or residential basis, the child shall be returned to the division of youth services.

3. If the director of the department of mental health, or his designee, determines that the child requires inpatient care and treatment at a mental health facility operated by the department of mental health or residential habilitation in a **[**mental retardation**] developmental disability** facility operated by the department of mental health, the director, or his designee, shall notify the director of the division of youth services that admission is appropriate. The director of the division may transfer the physical custody of the child to the department of mental health for admission to a department of mental health facility and the department of mental health shall accept the transfer subject to the availability of suitable accommodations.

4. The director of the department of mental health, or his designee, shall cause an individualized treatment or habilitation plan to be prepared by the mental health facility or **[**mental retardation**] developmental disability** facility for each child. The mental health facility

or **[**mental retardation**] developmental disability** facility shall review the status of the child at least once every thirty days. If, as a result of any such review, it is determined that inpatient care and treatment at a mental health facility or residential habilitation in a **[**mental retardation**] developmental disability** facility is no longer appropriate for the child because the child does not meet the criteria specified in subsection 2 of section 211.202 or in section 633.120, respectively, the director of the department of mental health, or his designee, shall so notify the director of the division of youth services and shall return the child to the custody of the division.

5. If a child for any reason ceases to come under the jurisdiction of the division of youth services, he may be retained in a mental health facility or **[**mental retardation**] developmental disability** facility only as otherwise provided by law.

211.447. PETITION TO TERMINATE PARENTAL RIGHTS FILED, WHEN — JUVENILE COURT MAY TERMINATE PARENTAL RIGHTS, WHEN — INVESTIGATION TO BE MADE — GROUNDS FOR TERMINATION. — 1. Any information that could justify the filing of a petition to terminate parental rights may be referred to the juvenile officer by any person. The juvenile officer shall make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should be filed, such officer shall so notify the informant in writing within thirty days of the referral. Such notification shall include the reasons that the petition will not be filed. Thereupon, the informant may bring the matter directly to the attention of the judge of the juvenile court by presenting the information in writing, and if it appears to the judge that the information could justify the filing of a petition, the judge may order the juvenile officer to take further action, including making a further preliminary inquiry or filing a petition.

2. Except as provided for in subsection 4 of this section, a petition to terminate the parental rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, when:

(1) Information available to the juvenile officer or the division establishes that the child has been in foster care for at least fifteen of the most recent twenty-two months; or

(2) A court of competent jurisdiction has determined the child to be an abandoned infant. For purposes of this subdivision, an "infant" means any child one year of age or under at the time of filing of the petition. The court may find that an infant has been abandoned if:

(a) The parent has left the child under circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so; or

(3) A court of competent jurisdiction has determined that the parent has:

(a) Committed murder of another child of the parent; or

(b) Committed voluntary manslaughter of another child of the parent; or

(c) Aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; or

(d) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent.

3. A termination of parental rights petition shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, within sixty days of the judicial determinations required in subsection 2 of this section, except as provided in subsection 4 of this section. Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate a petition for termination of parental rights which is filed outside of sixty days.

4. If grounds exist for termination of parental rights pursuant to subsection 2 of this section, the juvenile officer or the division may, but is not required to, file a petition to terminate the parental rights of the child's parent or parents if:

(1) The child is being cared for by a relative; or

(2) There exists a compelling reason for determining that filing such a petition would not be in the best interest of the child, as documented in the permanency plan which shall be made available for court review; or

(3) The family of the child has not been provided such services as provided for in section 211.183.

5. The juvenile officer or the division may file a petition to terminate the parental rights of the child's parent when it appears that one or more of the following grounds for termination exist:

(1) The child has been abandoned. For purposes of this subdivision a "child" means any child over one year of age at the time of filing of the petition. The court shall find that the child has been abandoned if, for a period of six months or longer:

(a) The parent has left the child under such circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so;

(2) The child has been abused or neglected. In determining whether to terminate parental rights pursuant to this subdivision, the court shall consider and make findings on the following conditions or acts of the parent:

(a) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(b) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control of the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control;

(c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child or any child in the family by the parent, including an act of incest, or by another under circumstances that indicate that the parent knew or should have known that such acts were being committed toward the child or any child in the family; or

(d) Repeated or continuous failure by the parent, although physically or financially able, to provide the child with adequate food, clothing, shelter, or education as defined by law, or other care and control necessary for the child's physical, mental, or emotional health and development**.**

Nothing in this subdivision shall be construed to permit discrimination on the basis of disability or disease;

(3) The child has been under the jurisdiction of the juvenile court for a period of one year, and the court finds that the conditions which led to the assumption of jurisdiction still persist, or conditions of a potentially harmful nature continue to exist, that there is little likelihood that those conditions will be remedied at an early date so that the child can be returned to the parent in the near future, or the continuation of the parent-child relationship greatly diminishes the child's prospects for early integration into a stable and permanent home. In determining whether to terminate parental rights under this subdivision, the court shall consider and make findings on the following:

(a) The terms of a social service plan entered into by the parent and the division and the extent to which the parties have made progress in complying with those terms;

(b) The success or failure of the efforts of the juvenile officer, the division or other agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to provide a proper home for the child;

(c) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(d) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control over the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control; or

(4) The parent has been found guilty or pled guilty to a felony violation of chapter 566 when the child or any child in the family was a victim, or a violation of section 568.020 when the child or any child in the family was a victim. As used in this subdivision, a "child" means any person who was under eighteen years of age at the time of the crime and who resided with such parent or was related within the third degree of consanguinity or affinity to such parent; or

(5) The child was conceived and born as a result of an act of forcible rape. When the biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such a plea or conviction shall be conclusive evidence supporting the termination of the biological father's parental rights; or

(6) The parent is unfit to be a party to the parent and child relationship because of a consistent pattern of committing a specific abuse, including but not limited to, abuses as defined in section 455.010, child abuse or drug abuse before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that within a three-year period immediately prior to the termination adjudication, the parent's parental rights to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of this section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar laws of other states.

6. The juvenile court may terminate the rights of a parent to a child upon a petition filed by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court finds that the termination is in the best interest of the child and when it appears by clear, cogent and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

7. When considering whether to terminate the parent-child relationship pursuant to subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section, the court shall evaluate and make findings on the following factors, when appropriate and applicable to the case:

(1) The emotional ties to the birth parent;

(2) The extent to which the parent has maintained regular visitation or other contact with the child;

(3) The extent of payment by the parent for the cost of care and maintenance of the child when financially able to do so including the time that the child is in the custody of the division or other child-placing agency;

(4) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time;

(5) The parent's disinterest in or lack of commitment to the child;

(6) The conviction of the parent of a felony offense that the court finds is of such a nature that the child will be deprived of a stable home for a period of years; provided, however, that incarceration in and of itself shall not be grounds for termination of parental rights;

(7) Deliberate acts of the parent or acts of another of which the parent knew or should have known that subjects the child to a substantial risk of physical or mental harm.

8. The court may attach little or no weight to infrequent visitations, communications, or contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child relationship may serve as an inducement for the parent's rehabilitation.

9. In actions for adoption pursuant to chapter 453, the court may hear and determine the issues raised in a petition for adoption containing a prayer for termination of parental rights filed with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

10. The disability or disease of a parent shall not constitute a basis for a determination that a child is a child in need of care, for the removal of custody of a child from the parent, or for the termination of parent rights without a specific showing that there is a causal relation between the disability or disease and harm to the child.

402.210. BOARD OF TRUSTEES — MEMBERS, APPOINTMENT, TERM, QUALIFICATIONS, EXPENSES — ANNUAL ACCOUNTING — RULES AND REGULATIONS. — 1. There is hereby created the "Missouri Family Trust Board of Trustees", which shall be a body corporate and an instrumentality of the state. The board of trustees shall consist of nine persons appointed by the governor with the advice and consent of the senate. The members' terms of office shall be three years and until their successors are appointed and qualified. The trustees shall be persons who are not prohibited from serving by sections 105.450 to 105.482 and who are not otherwise employed by the department of mental health. The board of trustees shall be composed of the following:

(1) Three members of the immediate family of persons who have a disability or are the recipients of services provided by the department in the treatment of mental illness. The advisory council for comprehensive psychiatric services, created pursuant to section 632.020, shall submit a panel of nine names to the governor, from which he shall appoint three. One shall be appointed for a term of one year, one for two years, and one for three years. Thereafter, as the term of a trustee expires each year, the Missouri advisory council for comprehensive psychiatric services shall submit to the governor a panel of not less than three nor more than five proposed trustees, and the governor shall appoint one trustee from such panel for a term of three years;

(2) Three members of the immediate family of persons who are recipients of services provided by the department in the habilitation of **[**the mentally retarded or developmentally disabled**]** **persons with intellectual disabilities or developmental disabilities**. The Missouri **[**advisory council on mental retardation and**]** developmental disabilities **council**, created pursuant to section 633.020, shall submit a panel of nine names to the governor, from which he shall appoint three. One shall be appointed for one year, one for two years and one for three years. Thereafter, as the term of a trustee expires each year, the Missouri **[**advisory council on mental retardation and**]** developmental disabilities **council** shall submit to the governor a panel of not less than three nor more than five proposed trustees, and the governor shall appoint one trustee from such panel for a term of three years;

(3) Three persons who are recognized for their expertise in general business matters and procedures. Of the three business people to be appointed by the governor, one shall be appointed for one year, one for two years and one for three years. Thereafter, as the term of a trustee expires each year, the governor shall appoint one business person as trustee for a term of three years.

2. The trustees shall receive no compensation for their services. The trust shall reimburse the trustees for necessary expenses actually incurred in the performance of their duties.

3. As used in this section, the term "immediate family" includes spouse, parents, parents of spouse, children, spouses of children and siblings.

4. The board of trustees shall be subject to the provisions of sections 610.010 to 610.120.

5. The board of trustees shall annually prepare or cause to be prepared an accounting of the trust funds and shall transmit a copy of the accounting to the governor, the president pro tempore of the senate and the speaker of the house of representatives.

6. The board of trustees shall establish policies, procedures and other rules and regulations necessary to implement the provisions of sections 402.199 to 402.220.

453.070. INVESTIGATIONS PRECONDITION FOR ADOPTION — CONTENTS OF INVESTIGATION REPORT — HOW CONDUCTED — ASSESSMENTS OF ADOPTIVE PARENTS, CONTENTS — WAIVING OF INVESTIGATION, WHEN — FEES — PREFERENCE TO FOSTER PARENTS, WHEN. — 1. Except as provided in subsection 5 of this section, no decree for the adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners in such adoption as ordered by the juvenile court having jurisdiction, until a full investigation, which includes an assessment of the adoptive parents, an appropriate postplacement assessment and a summary of written reports as provided for in section 453.026, and any other pertinent information relevant to whether the child is suitable for adoption by the petitioner and whether the petitioner is suitable as a parent for the child, has been made. The report shall also include a statement to the effect that the child has been considered as a potential subsidy recipient.

2. Such investigation shall be made, as directed by the court having jurisdiction, either by the division of family services of the state department of social services, a juvenile court officer, a licensed child-placement agency, a social worker licensed pursuant to chapter 337, or other suitable person appointed by the court. The results of such investigation shall be embodied in a written report that shall be submitted to the court within ninety days of the request for the investigation.

3. The department of social services, division of family services, shall develop rules and regulations regarding the content of the assessment of the petitioner or petitioners. The content of the assessment shall include but not be limited to, a report on the condition of the petitioner's home and information on the petitioner's education, financial, marital, medical and psychological status and criminal background check. If an assessment is conducted after August 28, 1997, but prior to the promulgation of rules and regulations by the department concerning the contents of such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to the court prior to the scheduled hearing of the adoptive petition.

5. In cases where the adoption or custody involves a child under eighteen years of age that is the natural child of one of the petitioners and where all of the parents required by this chapter to give consent to the adoption or transfer of custody have given such consent, the juvenile court may waive the investigation and report, except the criminal background check, and enter the decree for the adoption or order the transfer of custody without such investigation and report.

6. In the case of an investigation and report made by the division of family services by order of the court, the court may order the payment of a reasonable fee by the petitioner to cover the costs of the investigation and report.

7. Any adult person or persons over the age of eighteen, who, as foster parent or parents, have cared for a foster child continuously for a period of nine months or more and bonding has occurred as evidenced by the positive emotional and physical interaction between the foster parent and child, may apply to such authorized agency for the placement of such child with them for the purpose of adoption if the child is eligible for adoption. The agency and court shall give preference and first consideration for adoptive placements to foster parents. However, the final determination of the propriety of the adoption of such foster child shall be within the sole discretion of the court.

8. (1) Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of a prospective adoptive parent.

(2) The disability or disease of a prospective adoptive parent shall not constitute a basis for a determination that the petitioner is unfit or not suitable to be an adoptive parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child.

475.121. ADMISSION TO MENTAL HEALTH OR DEVELOPMENTAL DISABILITY FACILITIES. — 1. Pursuant to an application alleging that the admission of the ward to a particular mental health or **[**mental retardation**] developmental disability** facility is appropriate and in the best interest of the ward, the court may authorize the guardian or limited guardian to admit the ward to such facility. Such application shall be accompanied by a physician's statement setting forth the factual basis for the need for continued admission including a statement of the ward's current diagnosis, plan of care, treatment or habilitation and the probable duration of the admission.

2. If the court finds that the application establishes the need for inpatient care, habilitation or treatment of the ward in a mental health or **[**mental retardation**] developmental disability** facility without the adduction of further evidence, it shall issue an order authorizing the guardian to admit the ward to such facility in accordance with the provisions of section 632.120 or section 633.120.

3. The court may, in its discretion, appoint an attorney to represent the ward. The attorney shall meet with the ward and may request a hearing on the application. If a hearing is requested, the court shall set the application for hearing. If there is no request for hearing, the court may rule on the application without a hearing. The attorney for the ward shall be allowed a reasonable fee for his services rendered to be assessed as costs under section 475.085.

4. Proceedings under this section may be combined with adjudication proceedings under section 475.075.

475.355. TEMPORARY EMERGENCY DETENTION. — 1. If, upon the filing of a petition for the adjudication of incapacity or disability it appears that the respondent, by reason of a mental disorder or **[**mental retardation**] intellectual disability or developmental disability**, presents a likelihood of serious physical harm to himself or others, he may be detained in accordance with the provisions of chapter 632 if suffering from a mental disorder, or chapter 633 if **[**mentally retarded**] the person has an intellectual or developmental disability**, pending a hearing on the petition for adjudication.

2. As used in this section, the terms "mental disorder" and "mental retardation" shall be as defined in chapter 630 and the term "likelihood of serious physical harm to himself or others" shall be as defined in chapter 632.

3. The procedure for obtaining an order of temporary emergency detention shall be as prescribed by chapter 632, relating to prehearing detention of mentally disordered persons.

476.537. JUDGE LEAVING NO SURVIVING SPOUSE OR SURVIVING SPOUSE DIES — DEPENDENTS TO RECEIVE BENEFITS. — In the event that any judge leaving no surviving spouse or any surviving spouse receiving benefits under section 476.535 as a beneficiary dies leaving dependents who are unable to care for or support themselves because of any **[**mental retardation**] intellectual disability or developmental disability**, disease or disability, or any physical **[**handicap or**]** disability, the benefits that would be received by a surviving spouse on the judge's death if there were a surviving spouse or the benefits received by such surviving spouse, as the case may be, shall be paid to such surviving dependent for the remainder of such dependent's life. If the judge or such surviving spouse leaves more than one dependent who would be eligible for benefits under this section, then each eligible dependent shall receive a pro rata share of the amount that would be paid to a surviving spouse under section 476.535.

552.015. EVIDENCE OF MENTAL DISEASE OR DEFECT, ADMISSIBLE, WHEN. — 1. Evidence that the defendant did or did not suffer mental disease or defect shall not be admissible in a criminal prosecution except as provided in this section.

2. Evidence that the defendant did or did not suffer from a mental disease or defect shall be admissible in a criminal proceeding:

(1) To determine whether the defendant lacks capacity to understand the proceedings against him or to assist in his own defense as provided in section 552.020;

(2) To determine whether the defendant is criminally responsible as provided in section 552.030;

(3) To determine whether a person committed to the director of the department of mental health pursuant to this chapter shall be released as provided in section 552.040;

(4) To determine if a person in the custody of any correctional institution needs care in a mental hospital as provided in section 552.050;

(5) To determine whether a person condemned to death shall be executed as provided in sections 552.060 and 552.070;

(6) To determine whether or not the defendant, if found guilty, should be sentenced to death as provided in chapter 558;

(7) To determine the appropriate disposition of a defendant, if guilty, as provided in sections 557.011 and 557.031;

(8) To prove that the defendant did or did not have a state of mind which is an element of the offense;

(9) To determine if the defendant, if found not guilty by reason of mental disease or defect, should be immediately conditionally released by the court under the provisions of section 552.040 to the community or committed to a mental health or **[**mental retardation**]** **developmental disability** facility. This question shall not be asked regarding defendants charged with any of the dangerous felonies as defined in section 556.061, or with those crimes set forth in subsection 11 of section 552.040, or the attempts thereof.

552.020. LACK OF MENTAL CAPACITY BAR TO TRIAL OR CONVICTION — PSYCHIATRIC EXAMINATION, WHEN, REPORT OF — PLEA OF NOT GUILTY BY REASON OF MENTAL DISEASE, SUPPORTING PRETRIAL EVALUATION, CONDITIONS OF RELEASE — COMMITMENT TO HOSPITAL, WHEN — STATEMENTS OF ACCUSED INADMISSIBLE, WHEN — JURY MAY BE IMPANELED TO DETERMINE MENTAL FITNESS. — 1. No person who as a result of mental disease or defect lacks capacity to understand the proceedings against him or to assist in his own defense shall be tried, convicted or sentenced for the commission of an offense so long as the incapacity endures.

2. Whenever any judge has reasonable cause to believe that the accused lacks mental fitness to proceed, he shall, upon his own motion or upon motion filed by the state or by or on behalf of the accused, by order of record, appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded or mentally ill individuals**]** **persons with an intellectual disability or developmental disability or mental illness**, who are neither employees nor contractors of the department of mental health for purposes of performing the examination in question, to examine the accused; or shall direct the director to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded or mentally ill individuals**]** **persons with an intellectual disability, developmental disability, or mental illness**. The order shall direct that a written report or reports of such examination be filed with the clerk of the court. No private physician, psychiatrist, or psychologist shall be appointed by the court unless he has consented to act. The examinations ordered shall be made at such time and place and under such conditions as the court deems proper; except that, if the order directs the director of the department to have the accused examined, the director, or his designee, shall determine the time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses and may require the provision of police reports to the department for use in evaluations. The department shall establish standards and provide training for those individuals performing examinations pursuant to this section and section 552.030. No individual who is employed by or contracts with the department shall be designated to perform an examination pursuant to this chapter unless the individual meets the qualifications so

established by the department. Any examination performed pursuant to this subsection shall be completed and filed with the court within sixty days of the order unless the court for good cause orders otherwise. Nothing in this section or section 552.030 shall be construed to permit psychologists to engage in any activity not authorized by chapter 337. One pretrial evaluation shall be provided at no charge to the defendant by the department. All costs of subsequent evaluations shall be assessed to the party requesting the evaluation.

3. A report of the examination made under this section shall include:

(1) Detailed findings;

(2) An opinion as to whether the accused has a mental disease or defect;

(3) An opinion based upon a reasonable degree of medical or psychological certainty as to whether the accused, as a result of a mental disease or defect, lacks capacity to understand the proceedings against him or to assist in his own defense;

(4) A recommendation as to whether the accused should be held in custody in a suitable hospital facility for treatment pending determination, by the court, of mental fitness to proceed; and

(5) A recommendation as to whether the accused, if found by the court to be mentally fit to proceed, should be detained in such hospital facility pending further proceedings.

4. If the accused has pleaded lack of responsibility due to mental disease or defect or has given the written notice provided in subsection 2 of section 552.030, the court shall order the report of the examination conducted pursuant to this section to include, in addition to the information required in subsection 3 of this section, an opinion as to whether at the time of the alleged criminal conduct the accused, as a result of mental disease or defect, did not know or appreciate the nature, quality, or wrongfulness of his conduct or as a result of mental disease or defect was incapable of conforming his conduct to the requirements of law. A plea of not guilty by reason of mental disease or defect shall not be accepted by the court in the absence of any such pretrial evaluation which supports such a defense. In addition, if the accused has pleaded not guilty by reason of mental disease or defect, and the alleged crime is not a dangerous felony as defined in section 556.061, or those crimes set forth in subsection 11 of section 552.040, or the attempts thereof, the court shall order the report of the examination to include an opinion as to whether or not the accused should be immediately conditionally released by the court pursuant to the provisions of section 552.040 or should be committed to a mental health or **[**mental retardation**] developmental disability** facility. If such an evaluation is conducted at the direction of the director of the department of mental health, the court shall also order the report of the examination to include an opinion as to the conditions of release which are consistent with the needs of the accused and the interest of public safety, including, but not limited to, the following factors:

(1) Location and degree of necessary supervision of housing;

(2) Location of and responsibilities for appropriate psychiatric, rehabilitation and aftercare services, including the frequency of such services;

(3) Medication follow-up, including necessary testing to monitor medication compliance;

(4) At least monthly contact with the department's forensic case monitor;

(5) Any other conditions or supervision as may be warranted by the circumstances of the case.

5. If the report contains the recommendation that the accused should be committed to or held in a suitable hospital facility pending determination of the issue of mental fitness to proceed, and if the accused is not admitted to bail or released on other conditions, the court may order that the accused be committed to or held in a suitable hospital facility pending determination of the issue of mental fitness to proceed.

6. The clerk of the court shall deliver copies of the report to the prosecuting or circuit attorney and to the accused or his counsel. The report shall not be a public record or open to the public. Within ten days after the filing of the report, both the defendant and the state shall, upon written request, be entitled to an order granting them an examination of the accused by a

psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded or mentally ill individuals**] persons with an intellectual disability or developmental disability or mental illness**, of their own choosing and at their own expense. An examination performed pursuant to this subsection shall be completed and a report filed with the court within sixty days of the date it is received by the department or private psychiatrist, psychologist or physician unless the court, for good cause, orders otherwise. A copy shall be furnished the opposing party.

7. If neither the state nor the accused nor his counsel requests a second examination relative to fitness to proceed or contests the findings of the report referred to in subsections 2 and 3 of this section, the court may make a determination and finding on the basis of the report filed or may hold a hearing on its own motion. If any such opinion is contested, the court shall hold a hearing on the issue. The court shall determine the issue of mental fitness to proceed and may impanel a jury of six persons to assist in making the determination. The report or reports may be received in evidence at any hearing on the issue but the party contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

8. At a hearing on the issue pursuant to subsection 7 of this section, the accused is presumed to have the mental fitness to proceed. The burden of proving that the accused does not have the mental fitness to proceed is by a preponderance of the evidence and the burden of going forward with the evidence is on the party raising the issue. The burden of going forward shall be on the state if the court raises the issue.

9. If the court determines that the accused lacks mental fitness to proceed, the criminal proceedings shall be suspended and the court shall commit him to the director of the department of mental health.

10. Any person committed pursuant to subsection 9 of this section shall be entitled to the writ of habeas corpus upon proper petition to the court that committed him. The issue of the mental fitness to proceed after commitment under subsection 9 of this section may also be raised by a motion filed by the director of the department of mental health or by the state, alleging the mental fitness of the accused to proceed. A report relating to the issue of the accused's mental fitness to proceed may be attached thereto. If the motion is not contested by the accused or his counsel or if after a hearing on a motion the court finds the accused mentally fit to proceed, or if he is ordered discharged from the director's custody upon a habeas corpus hearing, the criminal proceedings shall be resumed.

11. The following provisions shall apply after a commitment as provided in this section:

(1) Six months after such commitment, the court which ordered the accused committed shall order an examination by the head of the facility in which the accused is committed, or a qualified designee, to ascertain whether the accused is mentally fit to proceed and if not, whether there is a substantial probability that the accused will attain the mental fitness to proceed to trial in the foreseeable future. The order shall direct that written report or reports of the examination be filed with the clerk of the court within thirty days and the clerk shall deliver copies to the prosecuting attorney or circuit attorney and to the accused or his counsel. The report required by this subsection shall conform to the requirements under subsection 3 of this section with the additional requirement that it include an opinion, if the accused lacks mental fitness to proceed, as to whether there is a substantial probability that the accused will attain the mental fitness to proceed in the foreseeable future;

(2) Within ten days after the filing of the report, both the accused and the state shall, upon written request, be entitled to an order granting them an examination of the accused by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded or mentally ill individuals**] persons with an intellectual disability or developmental disability or mental illness**, of their own choosing and at their own expense. An examination performed pursuant

to this subdivision shall be completed and filed with the court within thirty days unless the court, for good cause, orders otherwise. A copy shall be furnished to the opposing party;

(3) If neither the state nor the accused nor his counsel requests a second examination relative to fitness to proceed or contests the findings of the report referred to in subdivision (1) of this subsection, the court may make a determination and finding on the basis of the report filed, or may hold a hearing on its own motion. If any such opinion is contested, the court shall hold a hearing on the issue. The report or reports may be received in evidence at any hearing on the issue but the party contesting any opinion therein relative to fitness to proceed shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue;

(4) If the accused is found mentally fit to proceed, the criminal proceedings shall be resumed;

(5) If it is found that the accused lacks mental fitness to proceed but there is a substantial probability the accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall continue such commitment for a period not longer than six months, after which the court shall reinstitute the proceedings required under subdivision (1) of this subsection;

(6) If it is found that the accused lacks mental fitness to proceed and there is no substantial probability that the accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall dismiss the charges without prejudice and the accused shall be discharged, but only if proper proceedings have been filed under chapter 632 or chapter 475, in which case those sections and no others will be applicable. The probate division of the circuit court shall have concurrent jurisdiction over the accused upon the filing of a proper pleading to determine if the accused shall be involuntarily detained under chapter 632, or to determine if the accused shall be declared incapacitated under chapter 475, and approved for admission by the guardian under section 632.120 or 633.120, to a mental health or **[**retardation**] developmental disability** facility. When such proceedings are filed, the criminal charges shall be dismissed without prejudice if the court finds that the accused is mentally ill and should be committed or that he is incapacitated and should have a guardian appointed. The period of limitation on prosecuting any criminal offense shall be tolled during the period that the accused lacks mental fitness to proceed.

12. If the question of the accused's mental fitness to proceed was raised after a jury was impaneled to try the issues raised by a plea of not guilty and the court determines that the accused lacks the mental fitness to proceed or orders the accused committed for an examination pursuant to this section, the court may declare a mistrial. Declaration of a mistrial under these circumstances, or dismissal of the charges pursuant to subsection 11 of this section, does not constitute jeopardy, nor does it prohibit the trial, sentencing or execution of the accused for the same offense after he has been found restored to competency.

13. The result of any examinations made pursuant to this section shall not be a public record or open to the public.

14. No statement made by the accused in the course of any examination or treatment pursuant to this section and no information received by any examiner or other person in the course thereof, whether such examination or treatment was made with or without the consent of the accused or upon his motion or upon that of others, shall be admitted in evidence against the accused on the issue of guilt in any criminal proceeding then or thereafter pending in any court, state or federal. A finding by the court that the accused is mentally fit to proceed shall in no way prejudice the accused in a defense to the crime charged on the ground that at the time thereof he was afflicted with a mental disease or defect excluding responsibility, nor shall such finding by the court be introduced in evidence on that issue nor otherwise be brought to the notice of the jury.

552.030. MENTAL DISEASE OR DEFECT, NOT GUILTY PLEA BASED ON, PRETRIAL INVESTIGATION — EVIDENCE — NOTICE OF DEFENSE — EXAMINATION, REPORTS CONFIDENTIAL — STATEMENTS NOT ADMISSIBLE, EXCEPTION — PRESUMPTION OF

COMPETENCY — VERDICT CONTENTS — ORDER OF COMMITMENT TO DEPARTMENT. — 1. A person is not responsible for criminal conduct if, at the time of such conduct, as a result of mental disease or defect such person was incapable of knowing and appreciating the nature, quality, or wrongfulness of such person's conduct.

2. Evidence of mental disease or defect excluding responsibility shall not be admissible at trial of the accused unless the accused, at the time of entering such accused's plea to the charge, pleads not guilty by reason of mental disease or defect excluding responsibility, or unless within ten days after a plea of not guilty, or at such later date as the court may for good cause permit, the accused files a written notice of such accused's purpose to rely on such defense. Such a plea or notice shall not deprive the accused of other defenses. The state may accept a defense of mental disease or defect excluding responsibility, whether raised by plea or written notice, if the accused has no other defense and files a written notice to that effect. The state shall not accept a defense of mental disease or defect excluding responsibility in the absence of any pretrial evaluation as described in this section or section 552.020. Upon the state's acceptance of the defense of mental disease or defect excluding responsibility, the court shall proceed to order the commitment of the accused as provided in section 552.040 in cases of persons acquitted on the ground of mental disease or defect excluding responsibility, and further proceedings shall be had regarding the confinement and release of the accused as provided in section 552.040.

3. Whenever the accused has pleaded mental disease or defect excluding responsibility or has given the written notice provided in subsection 2 of this section, and such defense has not been accepted as provided in subsection 2 of this section, the court shall, after notice and upon motion of either the state or the accused, by order of record, appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded or mentally ill individuals**] persons with an intellectual disability or developmental disability or mental illness**, who are neither employees nor contractors of the department of mental health for purposes of performing the examination in question, to examine the accused, or shall direct the director of the department of mental health, or the director's designee, to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded or mentally ill individuals**] persons with an intellectual disability or developmental disability or mental illness** designated by the director, or the director's designee, as qualified to perform examinations pursuant to this chapter. The order shall direct that written report or reports of such examination be filed with the clerk of the court. No private psychiatrist, psychologist, or physician shall be appointed by the court unless such psychiatrist, psychologist or physician has consented to act. The examinations ordered shall be made at such time and place and under such conditions as the court deems proper; except that, if the order directs the director of the department of mental health to have the accused examined, the director, or the director's designee, shall determine the time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses and may require the provision of police reports to the department for use in evaluation. If an examination provided in section 552.020 was made and the report of such examination included an opinion as to whether, at the time of the alleged criminal conduct, the accused, as a result of mental disease or defect, did not know or appreciate the nature, quality or wrongfulness of such accused's conduct or as a result of mental disease or defect was incapable of conforming such accused's conduct to the requirements of law, such report may be received in evidence, and no new examination shall be required by the court unless, in the discretion of the court, another examination is necessary. If an examination is ordered pursuant to this section, the report shall contain the information required in subsections 3 and 4 of section 552.020. Within ten days after receiving a copy of such report, both the accused and the state shall, upon written request, be entitled to an order granting them an examination of the accused by an examiner of such accused's or its own choosing and at such accused's or its expense. The clerk of the court shall

deliver copies of the report or reports to the prosecuting or circuit attorney and to the accused or his counsel. No reports required by this subsection shall be public records or be open to the public. Any examination performed pursuant to this subsection shall be completed and the results shall be filed with the court within sixty days of the date it is received by the department or private psychiatrist, psychologist or physician unless the court, for good cause, orders otherwise.

4. If the report contains the recommendation that the accused should be held in custody in a suitable hospital facility pending trial, and if the accused is not admitted to bail, or released on other conditions, the court may order that the accused be committed to or held in a suitable hospital facility pending trial.

5. No statement made by the accused in the course of any such examination and no information received by any physician or other person in the course thereof, whether such examination was made with or without the consent of the accused or upon the accused's motion or upon that of others, shall be admitted in evidence against the accused on the issue of whether the accused committed the act charged against the accused in any criminal proceeding then or thereafter pending in any court, state or federal. The statement or information shall be admissible in evidence for or against the accused only on the issue of the accused's mental condition, whether or not it would otherwise be deemed to be a privileged communication. If the statement or information is admitted for or against the accused on the issue of the accused's mental condition, the court shall, both orally at the time of its admission and later by instruction, inform the jury that it must not consider such statement or information as any evidence of whether the accused committed the act charged against the accused.

6. All persons are presumed to be free of mental disease or defect excluding responsibility for their conduct, whether or not previously adjudicated in this or any other state to be or to have been sexual or social psychopaths, or incompetent; provided, however, the court may admit evidence presented at such adjudication based on its probative value. The issue of whether any person had a mental disease or defect excluding responsibility for such person's conduct is one for the trier of fact to decide upon the introduction of substantial evidence of lack of such responsibility. But, in the absence of such evidence, the presumption shall be conclusive. Upon the introduction of substantial evidence of lack of such responsibility, the presumption shall not disappear and shall alone be sufficient to take that issue to the trier of fact. The jury shall be instructed as to the existence and nature of such presumption when requested by the state and, where the issue of such responsibility is one for the jury to decide, the jury shall be told that the burden rests upon the accused to show by a preponderance or greater weight of the credible evidence that the defendant was suffering from a mental disease or defect excluding responsibility at the time of the conduct charged against the defendant. At the request of the defense the jury shall be instructed by the court as to the contents of subsection 2 of section 552.040.

7. When the accused is acquitted on the ground of mental disease or defect excluding responsibility, the verdict and the judgment shall so state as well as state the offense for which the accused was acquitted. The clerk of the court shall furnish a copy of any judgment or order of commitment to the department of mental health pursuant to this section to the criminal records central repository pursuant to section 43.503.

552.040. DEFINITIONS — ACQUITTAL BASED ON MENTAL DISEASE OR DEFECT, COMMITMENT TO STATE HOSPITAL REQUIRED — IMMEDIATE CONDITIONAL RELEASE — CONDITIONAL OR UNCONDITIONAL RELEASE, WHEN — PRIOR COMMITMENT, AUTHORITY TO REVOKE — APPLICATIONS FOR RELEASE, NOTICE, BURDEN OF PERSUASION, CRITERIA — HEARINGS REQUIRED, WHEN — DENIAL, REAPPLICATION — ESCAPE, NOTICE — ADDITIONAL CRITERIA FOR RELEASE. — 1. For the purposes of this section, the following words mean:

(1) "Prosecutor of the jurisdiction", the prosecuting attorney in a county or the circuit attorney of a city not within a county;

(2) "Secure facility", a state mental health facility, state **[**mental retardation**] developmental disability** facility, private facility under contract with the department of mental health, or a section within any of these facilities, in which persons committed to the department of mental health pursuant to this chapter, shall not be permitted to move about the facility or section of the facility, nor to leave the facility or section of the facility, without approval by the head of the facility or such head's designee and adequate supervision consistent with the safety of the public and the person's treatment, habilitation or rehabilitation plan;

(3) "Tried and acquitted" includes both pleas of mental disease or defect excluding responsibility that are accepted by the court and acquittals on the ground of mental disease or defect excluding responsibility following the proceedings set forth in section 552.030.

2. When an accused is tried and acquitted on the ground of mental disease or defect excluding responsibility, the court shall order such person committed to the director of the department of mental health for custody. The court shall also order custody and care in a state mental health or retardation facility unless an immediate conditional release is granted pursuant to this section. If the accused has not been charged with a dangerous felony as defined in section 556.061, or with murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040, or the attempts thereof, and the examination contains an opinion that the accused should be immediately conditionally released to the community by the court, the court shall hold a hearing to determine if an immediate conditional release is appropriate pursuant to the procedures for conditional release set out in subsections 10 to 14 of this section. Prior to the hearing, the court shall direct the director of the department of mental health, or the director's designee, to have the accused examined to determine conditions of confinement in accordance with subsection 4 of section 552.020. The provisions of subsection 16 of this section shall be applicable to defendants granted an immediate conditional release and the director shall honor the immediate conditional release as granted by the court. If the court determines that an immediate conditional release is warranted, the court shall order the person committed to the director of the department of mental health before ordering such a release. The court granting the immediate conditional release shall retain jurisdiction over the case for the duration of the conditional release. This shall not limit the authority of the director of the department of mental health or the director's designee to revoke the conditional release or the trial release of any committed person pursuant to subsection 17 of this section. If the accused is committed to a mental health or **[**mental retardation**] developmental disability** facility, the director of the department of mental health, or the director's designee, shall determine the time, place and conditions of confinement.

3. The provisions of sections 630.110, 630.115, 630.130, 630.133, 630.135, 630.140, 630.145, 630.150, 630.180, 630.183, 630.192, 630.194, 630.196, 630.198, 630.805, 632.370, 632.395, and 632.435 shall apply to persons committed pursuant to subsection 2 of this section. If the department does not have a treatment or rehabilitation program for a mental disease or defect of an individual, that fact may not be the basis for a release from commitment. Notwithstanding any other provision of law to the contrary, no person committed to the department of mental health who has been tried and acquitted by reason of mental disease or defect as provided in section 552.030 shall be conditionally or unconditionally released unless the procedures set out in this section are followed. Upon request by an indigent committed person, the appropriate court may appoint the office of the public defender to represent such person in any conditional or unconditional release proceeding under this section.

4. Notwithstanding section 630.115, any person committed pursuant to subsection 2 of this section shall be kept in a secure facility until such time as a court of competent jurisdiction enters an order granting a conditional or unconditional release to a nonsecure facility.

5. The committed person or the head of the facility where the person is committed may file an application in the court that committed the person seeking an order releasing the committed

person unconditionally; except that any person who has been denied an application for a conditional release pursuant to subsection 13 of this section shall not be eligible to file for an unconditional release until the expiration of one year from such denial. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the released person or the director of the department of mental health, or the director's designee, may file an application in the same court that released the committed person seeking an order releasing the committed person unconditionally. Copies of the application shall be served personally or by certified mail upon the head of the facility unless the head of the facility files the application, the committed person unless the committed person files the application, or unless the committed person was immediately conditionally released, the director of the department of mental health, and the prosecutor of the jurisdiction where the committed person was tried and acquitted. Any party objecting to the proposed release must do so in writing within thirty days after service. Within a reasonable period of time after any written objection is filed, which period shall not exceed sixty days unless otherwise agreed upon by the parties, the court shall hold a hearing upon notice to the committed person, the head of the facility, if necessary, the director of the department of mental health, and the prosecutor of the jurisdiction where the person was tried. Prior to the hearing any of the parties, upon written application, shall be entitled to an examination of the committed person, by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to mentally retarded or mentally ill individuals of its own choosing and at its expense. The report of the mental condition of the committed person shall accompany the application. By agreement of all parties to the proceeding any report of the mental condition of the committed person which may accompany the application for release or which is filed in objection thereto may be received by evidence, but the party contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

6. By agreement of all the parties and leave of court, the hearing may be waived, in which case an order granting an unconditional release shall be entered in accordance with subsection 8 of this section.

7. At a hearing to determine if the committed person should be unconditionally released, the court shall consider the following factors in addition to any other relevant evidence:

(1) Whether or not the committed person presently has a mental disease or defect;

(2) The nature of the offense for which the committed person was committed;

(3) The committed person's behavior while confined in a mental health facility;

(4) The elapsed time between the hearing and the last reported unlawful or dangerous act;

(5) Whether the person has had conditional releases without incident; and

(6) Whether the determination that the committed person is not dangerous to himself or others is dependent on the person's taking drugs, medicine or narcotics. The burden of persuasion for any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility shall be on the party seeking unconditional release to prove by clear and convincing evidence that the person for whom unconditional release is sought does not have, and in the reasonable future is not likely to have, a mental disease or defect rendering the person dangerous to the safety of himself or others.

8. The court shall enter an order either denying the application for unconditional release or granting an unconditional release. An order denying the application shall be without prejudice to the filing of another application after the expiration of one year from the denial of the last application.

9. No committed person shall be unconditionally released unless it is determined through the procedures in this section that the person does not have, and in the reasonable future is not likely to have, a mental disease or defect rendering the person dangerous to the safety of himself or others.

10. The committed person or the head of the facility where the person is committed may file an application in the court having probate jurisdiction over the facility where the person is detained for a hearing to determine whether the committed person shall be released conditionally. In the case of a person committed to a mental health facility upon acquittal on the grounds of mental disease or defect excluding responsibility for a dangerous felony as defined in section 556.061, murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040, any such application shall be filed in the court that committed the person. In such cases, jurisdiction over the application for conditional release shall be in the committing court. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the released person or the director of the department of mental health, or the director's designee, may file an application in the same court that released the person seeking to amend or modify the existing release. The procedures for application for unconditional releases set out in subsection 5 of this section shall apply, with the following additional requirements:

(1) A copy of the application shall also be served upon the prosecutor of the jurisdiction where the person is being detained, unless the released person was immediately conditionally released after being committed to the department of mental health, or unless the application was required to be filed in the court that committed the person in which case a copy of the application shall be served upon the prosecutor of the jurisdiction where the person was tried and acquitted and the prosecutor of the jurisdiction into which the committed person is to be released;

(2) The prosecutor of the jurisdiction where the person was tried and acquitted shall use their best efforts to notify the victims of dangerous felonies. Notification by the appropriate person or agency by certified mail to the most current address provided by the victim shall constitute compliance with the victim notification requirement of this section;

(3) The application shall specify the conditions and duration of the proposed release;

(4) The prosecutor of the jurisdiction where the person is being detained shall represent the public safety interest at the hearing unless the prosecutor of the jurisdiction where the person was tried and acquitted decides to appear to represent the public safety interest. If the application for release was required to be filed in the committing court, the prosecutor of the jurisdiction where the person was tried and acquitted shall represent the public safety interest. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the prosecutor of the jurisdiction where the person was tried and acquitted shall appear and represent the public safety interest.

11. By agreement of all the parties, the hearing may be waived, in which case an order granting a conditional release, stating the conditions and duration agreed upon by all the parties and the court, shall be entered in accordance with subsection 13 of this section.

12. At a hearing to determine if the committed person should be conditionally released, the court shall consider the following factors in addition to any other relevant evidence:

(1) The nature of the offense for which the committed person was committed;

(2) The person's behavior while confined in a mental health facility;

(3) The elapsed time between the hearing and the last reported unlawful or dangerous act;

(4) The nature of the person's proposed release plan;

(5) The presence or absence in the community of family or others willing to take responsibility to help the defendant adhere to the conditions of the release; and

(6) Whether the person has had previous conditional releases without incident. The burden of persuasion for any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility shall be on the party seeking release to prove by clear and convincing evidence that the person for whom release is sought is not likely to be dangerous to others while on conditional release.

13. The court shall enter an order either denying the application for a conditional release or granting conditional release. An order denying the application shall be without prejudice to

the filing of another application after the expiration of one year from the denial of the last application.

14. No committed person shall be conditionally released until it is determined that the committed person is not likely to be dangerous to others while on conditional release.

15. If, in the opinion of the head of a facility where a committed person is being detained, that person can be released without danger to others, that person may be released from the facility for a trial release of up to ninety-six hours under the following procedure:

(1) The head of the facility where the person is committed shall notify the prosecutor of the jurisdiction where the committed person was tried and acquitted and the prosecutor of the jurisdiction into which the committed person is to be released at least thirty days before the date of the proposed trial release;

(2) The notice shall specify the conditions and duration of the release;

(3) If no prosecutor to whom notice is required objects to the trial release, the committed person shall be released according to conditions and duration specified in the notice;

(4) If any prosecutor objects to the trial release, the head of the facility may file an application with the court having probate jurisdiction over the facility where the person is detained for a hearing under the procedures set out in subsections 5 and 10 of this section with the following additional requirements:

(a) A copy of the application shall also be served upon the prosecutor of the jurisdiction into which the committed person is to be released; and

(b) The prosecutor or prosecutors who objected to the trial release shall represent the public safety interest at the hearing; and

(5) The release criteria of subsections 12 to 14 of this section shall apply at such a hearing.

16. The department shall provide or shall arrange for follow-up care and monitoring for all persons conditionally released under this section and shall make or arrange for reviews and visits with the client at least monthly, or more frequently as set out in the release plan, and whether the client is receiving care, treatment, habilitation or rehabilitation consistent with his needs, condition and public safety. The department shall identify the facilities, programs or specialized services operated or funded by the department which shall provide necessary levels of follow-up care, aftercare, rehabilitation or treatment to the persons in geographical areas where they are released.

17. The director of the department of mental health, or the director's designee, may revoke the conditional release or the trial release and request the return of the committed person if such director or coordinator has reasonable cause to believe that the person has violated the conditions of such release. If requested to do so by the director or coordinator, a peace officer of a jurisdiction in which a patient on conditional release is found shall apprehend and return such patient to the facility. No peace officer responsible for apprehending and returning the committed person to the facility upon the request of the director or coordinator shall be civilly liable for apprehending or transporting such patient to the facility so long as such duties were performed in good faith and without negligence. If a person on conditional release is returned to a facility under the provisions of this subsection, a hearing shall be held within ninety-six hours, excluding Saturdays, Sundays and state holidays, to determine whether the person violated the conditions of the release or whether resumption of full-time hospitalization is the least restrictive alternative consistent with the person's needs and public safety. The director of the department of mental health, or the director's designee, shall conduct the hearing. The person shall be given notice at least twenty-four hours in advance of the hearing and shall have the right to have an advocate present.

18. At any time during the period of a conditional release or trial release, the court which ordered the release may issue a notice to the released person to appear to answer a charge of a violation of the terms of the release and the court may issue a warrant of arrest for the violation. Such notice shall be personally served upon the released person. The warrant shall authorize the

return of the released person to the custody of the court or to the custody of the director of mental health or the director's designee.

19. The head of a mental health facility, upon any notice that a committed person has escaped confinement, or left the facility or its grounds without authorization, shall immediately notify the prosecutor and sheriff of the county wherein the committed person is detained of the escape or unauthorized leaving of grounds and the prosecutor and sheriff of the county where the person was tried and acquitted.

20. Any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility for a dangerous felony as defined in section 556.061, murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040 shall not be eligible for conditional or unconditional release under the provisions of this section unless, in addition to the requirements of this section, the court finds that the following criteria are met:

(1) Such person is not now and is not likely in the reasonable future to commit another violent crime against another person because of such person's mental illness; and

(2) Such person is aware of the nature of the violent crime committed against another person and presently possesses the capacity to appreciate the criminality of the violent crime against another person and the capacity to conform such person's conduct to the requirements of law in the future.

630.003. DEPARTMENT CREATED — STATE MENTAL HEALTH COMMISSION — MISSOURI INSTITUTE OF MENTAL HEALTH — TRANSFERS OF POWERS AND AGENCIES. — 1. There is hereby created a department of mental health to be headed by a mental health commission who shall appoint a director, by and with the advice and consent of the senate. The director shall be the administrative head of the department and shall serve at the pleasure of the commission and be compensated as provided by law for the director, division of mental health. All employees of the department shall be selected in accordance with chapter 36.

2. (1) The "State Mental Health Commission", composed of seven members, is the successor to the former state mental health commission and it has all the powers, duties and responsibilities of the former commission. All members of the commission shall be appointed by the governor, by and with the advice and consent of the senate. None of the members shall otherwise be employed by the state of Missouri.

(2) Three of the commission members first appointed shall be appointed for terms of four years, and two shall be appointed for terms of three years, and two shall be appointed for a term of two years. The governor shall designate, at the time the appointments are made, the length of the term of each member so appointed. Thereafter all terms shall be for four years.

(3) At least two of the members of the commission shall be physicians, one of whom shall be recognized as an expert in the field of the treatment of nervous and mental diseases, and one of whom shall be recognized as an expert in the field of **[**mental retardation or of other**] intellectual or** developmental disabilities. At least two of the members of the commission shall be representative of persons or groups who are consumers having substantial interest in the services provided by the division, one of whom shall represent **[**the mentally retarded or developmentally disabled**] persons with an intellectual disability or developmental disability** and one of whom shall represent those persons being treated for nervous and mental diseases. Of the other three members at least one must be recognized for his expertise in general business management procedures, and two shall be recognized for their interest and expertise in dealing with alcohol/drug abuse problems, or community mental health services.

3. The provisions of sections 191.120, 191.125, 191.130, 191.140, 191.150, 191.160, 191.170, 191.180, 191.190, 191.200, 191.210 and others as they relate to the division of mental health not previously reassigned by executive reorganization plan number 2 of 1973 as submitted by the governor under chapter 26 are transferred by specific type transfer from the department of public health and welfare to the department of mental health. The division of mental health,

department of health and welfare, chapter 202 and others are abolished and all powers, duties and functions now assigned by law to the division, the director of the divisions of mental health or any of the institutions or officials of the division are transferred by type I transfer to the department of mental health.

4. The Missouri institute of psychiatry, which is under the board of curators of the University of Missouri is hereafter to be known as the "Missouri Institute of Mental Health". The purpose of the institute will be that of conducting research into improving services for persons served by the department of mental health for fostering the training of psychiatric residents in public psychiatry and for fostering excellence in mental health services through employee training and the study of mental health policy and ethics. To assist in this training, hospitals operated by and providers contracting with the department of mental health may be used for the same purposes and under the same arrangements as the board of curators of the University of Missouri utilizes with other hospitals in the state in supervising residency training for medical doctors. Appropriations requests for the Missouri institute of mental health shall be jointly developed by the University of Missouri and the department of mental health. All appropriations for the Missouri institute of mental health shall be made to the curators of the University of Missouri but shall be submitted separately from the appropriations of the curators of the University of Missouri.

5. There is hereby established within the department of mental health a division of **[**mental retardation and**]** developmental disabilities. The director of the division shall be appointed by the director of the department. The division shall administer all state facilities under the direction and authority of the department director. The Marshall Habilitation Center, the Higginsville Habilitation Center, the Bellefontaine Habilitation Center, the Nevada Habilitation Center, the St. Louis Developmental Disabilities Treatment Centers, and the regional centers located at Albany, Columbia, Hannibal, Joplin, Kansas City, Kirksville, Poplar Bluff, Rolla, St. Louis, Sikeston and Springfield and other similar facilities as may be established, are transferred by type I transfer to the division of **[**mental retardation and**]** developmental disabilities.

6. All the duties, powers and functions of the advisory council on mental retardation and community health centers, sections 202.664 to 202.666, are hereby transferred by type I transfer to the division of mental retardation and developmental disabilities of the department of mental health. The advisory council on mental retardation and community health centers shall be appointed by the division director.

7. The advisory council on mental retardation and developmental disabilities heretofore established by executive order and all of the duties, powers and functions of the advisory council including the responsibilities of the provision of the council in regard to the Federal Development Disabilities Law (P.L. 91-517) and all amendments thereto are transferred by type I transfer to the division of mental retardation and developmental disabilities. The advisory council on mental retardation and developmental disabilities shall be appointed by the director of the division of mental retardation and developmental disabilities.

8. The advisory council on alcoholism and drug abuse, chapter 202, is transferred by type II transfer to the department of mental health and the members of the advisory council shall be appointed by the mental health director.

630.005. DEFINITIONS. — As used in this chapter and chapters 631, 632, and 633, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Administrative entity", a provider of specialized services other than transportation to clients of the department on behalf of a division of the department;

(2) "Alcohol abuse", the use of any alcoholic beverage, which use results in intoxication or in a psychological or physiological dependency from continued use, which dependency induces a mental, emotional or physical impairment and which causes socially dysfunctional behavior;

(3) "Chemical restraint", medication administered with the primary intent of restraining a patient who presents a likelihood of serious physical injury to himself or others, and not prescribed to treat a person's medical condition;

(4) "Client", any person who is placed by the department in a facility or program licensed and funded by the department or who is a recipient of services from a regional center, as defined in section 633.005;

(5) "Commission", the state mental health commission;

(6) "Consumer", a person:

(a) Who qualifies to receive department services; or

(b) Who is a parent, child or sibling of a person who receives department services; or

(c) Who has a personal interest in services provided by the department. A person who provides services to persons affected by **[**mental retardation,**] intellectual disabilities,** developmental disabilities, mental disorders, mental illness, or alcohol or drug abuse shall not be considered a consumer;

(7) "Day program", a place conducted or maintained by any person who advertises or holds himself out as providing prevention, evaluation, treatment, habilitation or rehabilitation for persons affected by mental disorders, mental illness, **[**mental retardation,**] intellectual disabilities,** developmental disabilities or alcohol or drug abuse for less than the full twenty-four hours comprising each daily period;

(8) "Department", the department of mental health of the state of Missouri;

(9) "Developmental disability", a disability:

(a) Which is attributable to:

a. Mental retardation, cerebral palsy, epilepsy, head injury or autism, or a learning disability related to a brain dysfunction; or

b. Any other mental or physical impairment or combination of mental or physical impairments; and

(b) Is manifested before the person attains age twenty-two; and

(c) Is likely to continue indefinitely; and

(d) Results in substantial functional limitations in two or more of the following areas of major life activities:

a. Self-care;

b. Receptive and expressive language development and use;

c. Learning;

d. Self-direction;

e. Capacity for independent living or economic self-sufficiency;

f. Mobility; and

(e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, habilitation or other services which may be of lifelong or extended duration and are individually planned and coordinated;

(10) "Director", the director of the department of mental health, or his designee;

(11) "Domiciled in Missouri", a permanent connection between an individual and the state of Missouri, which is more than mere residence in the state; it may be established by the individual being physically present in Missouri with the intention to abandon his previous domicile and to remain in Missouri permanently or indefinitely;

(12) "Drug abuse", the use of any drug without compelling medical reason, which use results in a temporary mental, emotional or physical impairment and causes socially dysfunctional behavior, or in psychological or physiological dependency resulting from continued use, which dependency induces a mental, emotional or physical impairment and causes socially dysfunctional behavior;

(13) "Habilitation", a process of treatment, training, care or specialized attention which seeks to enhance and maximize **[**the mentally retarded or developmentally disabled person's

abilities **] a person with an intellectual disability or an developmental disability ability** to cope with the environment and to live as normally as possible;

(14) "Habilitation center", a residential facility operated by the department and serving only persons who are **[**mentally retarded, including**]** developmentally disabled;

(15) "Head of the facility", the chief administrative officer, or his designee, of any residential facility;

(16) "Head of the program", the chief administrative officer, or his designee, of any day program;

(17) "Individualized habilitation plan", a document which sets forth habilitation goals and objectives for **[**mentally retarded or developmentally disabled**]** residents and clients **with an intellectual disability or a developmental disability**, and which details the habilitation program as required by law, rules and funding sources;

(18) "Individualized rehabilitation plan", a document which sets forth the care, treatment and rehabilitation goals and objectives for patients and clients affected by alcohol or drug abuse, and which details the rehabilitation program as required by law, rules and funding sources;

(19) "Individualized treatment plan", a document which sets forth the care, treatment and rehabilitation goals and objectives for **[**mentally disordered or mentally ill**]** patients and clients **with mental disorders or mental illness**, and which details the treatment program as required by law, rules and funding sources;

(20) "Investigator", an employee or contract agent of the department of mental health who is performing an investigation regarding an allegation of abuse or neglect or an investigation at the request of the director of the department of mental health or his designee;

(21) "Least restrictive environment", a reasonably available setting or mental health program where care, treatment, habilitation or rehabilitation is particularly suited to the level and quality of services necessary to implement a person's individualized treatment, habilitation or rehabilitation plan and to enable the person to maximize his **or her** functioning potential to participate as freely as feasible in normal living activities, giving due consideration to potentially harmful effects on the person and the safety of other facility or program clients and public safety. For some **[**mentally disordered or mentally retarded**]** persons **with mental disorders, intellectual disabilities, or developmental disabilities**, the least restrictive environment may be a facility operated by the department, a private facility, a supported community living situation, or an alternative community program designed for persons who are civilly detained for outpatient treatment or who are conditionally released pursuant to chapter 632;

(22) "Mental disorder", any organic, mental or emotional impairment which has substantial adverse effects on a person's cognitive, volitional or emotional function and which constitutes a substantial impairment in a person's ability to participate in activities of normal living;

(23) "Mental illness", a state of impaired mental processes, which impairment results in a distortion of a person's capacity to recognize reality due to hallucinations, delusions, faulty perceptions or alterations of mood, and interferes with an individual's ability to reason, understand or exercise conscious control over his actions. The term "mental illness" does not include the following conditions unless they are accompanied by a mental illness as otherwise defined in this subdivision:

(a) Mental retardation, developmental disability or narcolepsy;

(b) Simple intoxication caused by substances such as alcohol or drugs;

(c) Dependence upon or addiction to any substances such as alcohol or drugs;

(d) Any other disorders such as senility, which are not of an actively psychotic nature;

(24) "Mental retardation", significantly subaverage general intellectual functioning which:

(a) Originates before age eighteen; and

(b) Is associated with a significant impairment in adaptive behavior;

(25) "Minor", any person under the age of eighteen years;

(26) "Patient", an individual under observation, care, treatment or rehabilitation by any hospital or other mental health facility or mental health program pursuant to the provisions of chapter 632;

(27) "Psychosurgery",

(a) Surgery on the normal brain tissue of an individual not suffering from physical disease for the purpose of changing or controlling behavior; or

(b) Surgery on diseased brain tissue of an individual if the sole object of the surgery is to control, change or affect behavioral disturbances, except seizure disorders;

(28) "Rehabilitation", a process of restoration of a person's ability to attain or maintain normal or optimum health or constructive activity through care, treatment, training, counseling or specialized attention;

(29) "Residence", the place where the patient has last generally lodged prior to admission or, in case of a minor, where his family has so lodged; except, that admission or detention in any facility of the department shall not be deemed an absence from the place of residence and shall not constitute a change in residence;

(30) "Resident", a person receiving residential services from a facility, other than mental health facility, operated, funded or licensed by the department;

(31) "Residential facility", any premises where residential prevention, evaluation, care, treatment, habilitation or rehabilitation is provided for persons affected by mental disorders, mental illness, **[**mental retardation**] intellectual disability**, developmental disabilities or alcohol or drug abuse; except the person's dwelling;

(32) "Specialized service", an entity which provides prevention, evaluation, transportation, care, treatment, habilitation or rehabilitation services to persons affected by mental disorders, mental illness, **[**mental retardation,**] intellectual disabilities,** developmental disabilities or alcohol or drug abuse;

(33) "Vendor", a person or entity under contract with the department, other than as a department employee, who provides services to patients, residents or clients;

(34) "Vulnerable person", any person in the custody, care, or control of the department that is receiving services from an operated, funded, licensed, or certified program.

630.010. MENTAL HEALTH COMMISSION — MEMBERS, TERMS, QUALIFICATIONS, APPOINTMENT, VACANCIES, COMPENSATION — ORGANIZATION, MEETINGS. — 1. The state mental health commission, established by the omnibus reorganization act of 1974, section 9, appendix B, RSMo, shall be composed of seven members appointed by the governor, by and with the advice and consent of the senate. The terms of members appointed under the reorganization act before August 13, 1980, shall continue until the terms under which the members were regularly appointed expire. The terms shall be for four years. Each commissioner shall hold office until his successor has been appointed and qualified.

2. The commission shall be comprised of members who are not prohibited from serving by sections 105.450 to 105.482, as amended, and who are not otherwise employed by the state. The commission shall be composed of the following:

(1) A physician recognized as an expert in the treatment of mental illness;

(2) A physician recognized as an expert in the evaluation or habilitation of **[**the mentally retarded and developmentally disabled**] persons with an intellectual disability or developmental disability**;

(3) A representative of groups who are consumers or families of consumers interested in the services provided by the department in the treatment of mental illness;

(4) A representative of groups who are consumers or families of consumers interested in the services provided by the department in the habilitation of **[**the mentally retarded**] persons with an intellectual disability or developmental disability**;

(5) A person recognized for his expertise in general business matters and procedures;

(6) A person recognized for his interest and expertise in dealing with alcohol or drug abuse; and

(7) A person recognized for his interest or expertise in community mental health services.

3. Vacancies occurring on the commission shall be filled by appointment by the governor, by and with the advice and consent of the senate, for the unexpired terms. In case of a vacancy when the senate is not in session, the governor shall make a temporary appointment until the next session of the general assembly, when he shall nominate someone to fill the office.

4. The commission shall elect from its members a chairman and a secretary. Meetings shall be held at least once a month, and special meetings may be held at the call of the chairman.

5. The department shall pay the commission members one hundred dollars per day for each day, or portion thereof, they actually spend in transacting the business of the commission and shall reimburse the commission members for necessary expenses actually incurred in the performance of their official duties.

630.053. MENTAL HEALTH EARNINGS FUND — USES — RULES AND REGULATIONS, PROCEDURE. — 1. There is hereby created in the state treasury a fund to be known as the "Mental Health Earnings Fund". The state treasurer shall credit to the fund any interest earned from investing the moneys in the fund. Notwithstanding the provisions of section 33.080, money in the mental health earnings fund shall not be transferred and placed to the credit of general revenue at the end of the biennium.

2. Fees received pursuant to the substance abuse traffic offenders program shall be deposited in the mental health earnings fund. Such fees shall not be used for personal services, expenses and equipment or for any demonstration or other program. No other federal or state funds shall be deposited in the fund, except for the purposes provided in subsections 3 **[**and 4**] to 5** of this section. The moneys received from such fees shall be appropriated solely for assistance in securing alcohol and drug rehabilitation services for persons who are unable to pay for the services they receive.

3. The mental health earnings fund may be used for the deposit of revenue received for the provision of services under a managed care agreement entered into by the department of mental health. Subject to the approval through the appropriation process, such revenues may be expended for the purposes of providing such services pursuant to the managed care agreement and for no other purpose and shall be accounted for separately from all other revenues deposited in the fund.

4. The mental health earnings fund may, if approved through the appropriation process, be used for the deposit of revenue received pursuant to an agreement entered into by the department of mental health and an alcohol and drug abuse counselor certification board for the purpose of providing oversight of counselor certification. Such revenue shall be accounted for separately from all other revenues deposited in the fund.

5. **The mental health earnings fund may be used for the deposit of revenue received from proceeds of any sales and services from Mental Health First Aid USA. Subject to the approval through the appropriation process, such proceeds shall be used for the purpose of funding Mental Health First Aid USA activities and shall be accounted for separately from all other revenues deposited in the fund.**

6. The department of mental health shall promulgate rules and regulations to implement and administer the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

630.095. COPYRIGHTS AND TRADEMARKS BY DEPARTMENT. — The department may copyright or obtain a trademark for any instructional, training and informational audio-visual materials, manuals and documents which are prepared by department personnel or by persons who receive department funding to prepare such material. If the material is sold directly or for

distribution, the department shall pay the proceeds of the sales to the director of revenue for deposit to the general revenue fund**, except for proceeds received under subsection 5 of section 630.053**.

630.097. COMPREHENSIVE CHILDREN'S MENTAL HEALTH SERVICE SYSTEM TO BE DEVELOPED — TEAM ESTABLISHED, MEMBERS, DUTIES — PLAN TO BE DEVELOPED, CONTENT — EVALUATIONS TO BE CONDUCTED, WHEN. — 1. The department of mental health shall develop, in partnership with all departments represented on the children's services commission, a unified accountable comprehensive children's mental health service system. The department of mental health shall establish a state interagency comprehensive children's mental health service system team comprised of representation from:

(1) Family-run organizations and family members;

(2) Child advocate organizations;

(3) The department of health and senior services;

(4) The department of social services' children's division, division of youth services, and the division of medical services;

(5) The department of elementary and secondary education;

(6) The department of mental health's division of alcohol and drug abuse, division of **[**mental retardation and**]** developmental disabilities, and the division of comprehensive psychiatric services;

(7) The department of public safety;

(8) The office of state courts administrator;

(9) The juvenile justice system; and

(10) Local representatives of the member organizations of the state team to serve children with emotional and behavioral disturbance problems, developmental disabilities, and substance abuse problems. The team shall be called "The Comprehensive System Management Team". There shall be a stakeholder advisory committee to provide input to the comprehensive system management team to assist the departments in developing strategies and to ensure positive outcomes for children are being achieved. The department of mental health shall obtain input from appropriate consumer and family advocates when selecting family members for the comprehensive system management team, in consultation with the departments that serve on the children's services commission. The implementation of a comprehensive system shall include all state agencies and system partner organizations involved in the lives of the children served. These system partners may include private and not-for-profit organizations and representatives from local system of care teams and these partners may serve on the stakeholder advisory committee. The department of mental health shall promulgate rules for the implementation of this section in consultation with all of the departments represented on the children's services commission.

2. The department of mental health shall, in partnership with the departments serving on the children's services commission and the stakeholder advisory committee, develop a state comprehensive children's mental health service system plan. This plan shall be developed and submitted to the governor, the general assembly, and children's services commission by December, 2004. There shall be subsequent annual reports that include progress toward outcomes, monitoring, changes in populations and services, and emerging issues. The plan shall:

(1) Describe the mental health service and support needs of Missouri's children and their families, including the specialized needs of specific segments of the population;

(2) Define the comprehensive array of services including services such as intensive home-based services, early intervention services, family support services, respite services, and behavioral assistance services;

(3) Establish short- and long-term goals, objectives, and outcomes;

(4) Describe and define the parameters for local implementation of comprehensive children's mental health system teams;

(5) Describe and emphasize the importance of family involvement in all levels of the system;

(6) Describe the mechanisms for financing, and the cost of implementing the comprehensive array of services;

(7) Describe the coordination of services across child-serving agencies and at critical transition points, with emphasis on the involvement of local schools;

(8) Describe methods for service, program, and system evaluation;

(9) Describe the need for, and approaches to, training and technical assistance; and

(10) Describe the roles and responsibilities of the state and local child-serving agencies in implementing the comprehensive children's mental health care system.

3. The comprehensive system management team shall collaborate to develop uniform language to be used in intake and throughout the provision of services.

4. The comprehensive children's mental health services system shall:

(1) Be child centered, family focused, strength based, and family driven, with the needs of the child and family dictating the types and mix of services provided, and shall include the families as full participants in all aspects of the planning and delivery of services;

(2) Provide community-based mental health services to children and their families in the context in which the children live and attend school;

(3) Respond in a culturally competent and responsive manner;

(4) Emphasize prevention, early identification, and intervention;

(5) Assure access to a continuum of services that:

(a) Educate the community about the mental health needs of children;

(b) Address the unique physical, behavioral, emotional, social, developmental, and educational needs of children;

(c) Are coordinated with the range of social and human services provided to children and their families by local school districts, **the departments of** social services, health and senior services, **and** public safety, juvenile offices, and the juvenile and family courts;

(d) Provide a comprehensive array of services through an integrated service plan;

(e) Provide services in the least restrictive most appropriate environment that meets the needs of the child; and

(f) Are appropriate to the developmental needs of children;

(6) Include early screening and prompt intervention to:

(a) Identify and treat the mental health needs of children in the least restrictive environment appropriate to their needs; and

(b) Prevent further deterioration;

(7) Address the unique problems of paying for mental health services for children, including:

(a) Access to private insurance coverage;

(b) Public funding, including:

a. Assuring that funding follows children across departments; and

b. Maximizing federal financial participation;

(c) Private funding and services;

(8) Assure a smooth transition from child to adult mental health services when needed;

(9) Coordinate a service delivery system inclusive of services, providers, and schools that serve children and youth with emotional and behavioral disturbance problems, and their families through state agencies that serve on the state comprehensive children's management team; and

(10) Be outcome based.

5. By August 28, 2007, and periodically thereafter, the children's services commission shall conduct and distribute to the general assembly an evaluation of the implementation and effectiveness of the comprehensive children's mental health care system, including an assessment of family satisfaction and the progress of achieving outcomes.

630.120. NO PRESUMPTIONS. — No patient or resident, either voluntary or involuntary, shall be presumed to be incompetent, to forfeit any legal right, responsibility or obligation or to suffer any legal disability as a citizen, unless otherwise prescribed by law, as a consequence of receiving evaluation, care, treatment, habilitation or rehabilitation for a mental disorder, mental illness, **[**mental retardation**] intellectual disability**, developmental disability, alcohol problem or drug problem.

630.165. SUSPECTED ABUSE OF PATIENT, REPORT, BY WHOM MADE, CONTENTS — EFFECT OF FAILURE TO REPORT — PENALTY. — 1. When any physician, physician assistant, dentist, chiropractor, optometrist, podiatrist, intern, resident, nurse, nurse practitioner, medical examiner, social worker, licensed professional counselor, certified substance abuse counselor, psychologist, other health practitioner, minister, Christian Science practitioner, peace officer, pharmacist, physical therapist, facility administrator, nurse's aide, orderly or any other direct-care staff in a residential facility, day program, group home or **[**mental retardation**] developmental disability** facility as defined in section 633.005, or specialized service operated, licensed, certified, or funded by the department or in a mental health facility or mental health program in which people may be admitted on a voluntary basis or are civilly detained pursuant to chapter 632, or employee of the departments of social services, mental health, or health and senior services; or home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer, long-term care facility administrator or employee; mental health professional, probation or parole officer, or other nonfamilial person with responsibility for the care of a patient, resident, or client of a facility, program, or service has reasonable cause to suspect that a patient, resident or client of a facility, program or service has been subjected to abuse or neglect or observes such person being subjected to conditions or circumstances that would reasonably result in abuse or neglect, he or she shall immediately report or cause a report to be made to the department in accordance with section 630.163.

2. Any person who knowingly fails to make a report as required in subsection 1 of this section is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this section shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

3. Every person who has been previously convicted of or pled guilty to failing to make a report as required in subsection 1 of this section and who is subsequently convicted of failing to make a report under subsection 2 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violation of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

4. Any person who knowingly files a false report of vulnerable person abuse or neglect is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

5. Every person who has been previously convicted of or pled guilty to making a false report to the department and who is subsequently convicted of making a false report under subsection 4 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools

of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

6. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

7. Any residential facility, day program, or specialized service operated, funded, or licensed by the department that prevents or discourages a patient, resident, **[**or**]** client, employee, or other person from reporting that a patient, resident, or client of a facility, program, or service has been abused or neglected shall be subject to loss of their license issued pursuant to sections 630.705 to 630.760 and civil fines of up to five thousand dollars for each attempt to prevent or discourage reporting.

630.167. INVESTIGATION OF REPORT, WHEN MADE, BY WHOM — ABUSE PREVENTION BY REMOVAL, PROCEDURE — REPORTS CONFIDENTIAL, PRIVILEGED, EXCEPTIONS — IMMUNITY OF REPORTER, NOTIFICATION — RETALIATION PROHIBITED — ADMINISTRATIVE DISCHARGE OF EMPLOYEE, APPEAL PROCEDURE. — 1. Upon receipt of a report, the department or the department of health and senior services, if such facility or program is licensed pursuant to chapter 197, shall initiate an investigation within twenty-four hours.

2. If the investigation indicates possible abuse or neglect of a patient, resident or client, the investigator shall refer the complaint together with the investigator's report to the department director for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate removal from a facility not operated or funded by the department is necessary to protect the residents from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the residents in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the resident for a period not to exceed thirty days.

3. (1) Except as otherwise provided in this section, reports referred to in section 630.165 and the investigative reports referred to in this section shall be confidential, shall not be deemed a public record, and shall not be subject to the provisions of section 109.180 or chapter 610. Investigative reports pertaining to abuse and neglect shall remain confidential until a final report is complete, subject to the conditions contained in this section. Final reports of substantiated abuse or neglect issued on or after August 28, 2007, are open and shall be available for release in accordance with chapter 610. The names and all other identifying information in such final substantiated reports, including diagnosis and treatment information about the patient, resident, or client who is the subject of such report, shall be confidential and may only be released to the patient, resident, or client who has not been adjudged incapacitated under chapter 475, the custodial parent or guardian parent, or other guardian of the patient, resident or client. The names and other descriptive information of the complainant, witnesses, or other persons for whom findings are not made against in the final substantiated report shall be confidential and not deemed a public record. Final reports of unsubstantiated allegations of abuse and neglect shall remain closed records and shall only be released to the parents or other guardian of the patient, resident, or client who is the subject of such report, patient, resident, or client and the department vendor, provider, agent, or facility where the patient, resident, or client was receiving department services at the time of the unsubstantiated allegations of abuse and neglect, but the names and any other descriptive information of the complainant or any other person mentioned in the reports shall not be disclosed unless such complainant or person specifically consents to such disclosure. Requests for final reports of substantiated or unsubstantiated abuse or neglect from a patient, resident or client who has not been adjudged incapacitated under chapter 475 may be denied or withheld if the director of the department or his or her designee determines that such release would jeopardize the person's therapeutic care, treatment, habilitation, or rehabilitation, or the

safety of others and provided that the reasons for such denial or withholding are submitted in writing to the patient, resident or client who has not been adjudged incapacitated under chapter 475. All reports referred to in this section shall be admissible in any judicial proceedings or hearing in accordance with section **[**36.390**] 621.075** or any administrative hearing before the director of the department of mental health, or the director's designee. All such reports may be disclosed by the department of mental health to law enforcement officers and public health officers, but only to the extent necessary to carry out the responsibilities of their offices, and to the department of social services, and the department of health and senior services, and to boards appointed pursuant to sections 205.968 to 205.990 that are providing services to the patient, resident or client as necessary to report or have investigated abuse, neglect, or rights violations of patients, residents or clients provided that all such law enforcement officers, public health officers, department of social services' officers, department of health and senior services' officers, and boards shall be obligated to keep such information confidential.

(2) Except as otherwise provided in this section, the proceedings, findings, deliberations, reports and minutes of committees of health care professionals as defined in section 537.035 or mental health professionals as defined in section 632.005 who have the responsibility to evaluate, maintain, or monitor the quality and utilization of mental health services are privileged and shall not be subject to the discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible into evidence into any judicial or administrative action for failure to provide adequate or appropriate care. Such committees may exist, either within department facilities or its agents, contractors, or vendors, as applicable. Except as otherwise provided in this section, no person who was in attendance at any investigation or committee proceeding shall be permitted or required to disclose any information acquired in connection with or in the course of such proceeding or to disclose any opinion, recommendation or evaluation of the committee or board or any member thereof; provided, however, that information otherwise discoverable or admissible from original sources is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before any committee or in the course of any investigation, nor is any member, employee or agent of such committee or other person appearing before it to be prevented from testifying as to matters within their personal knowledge and in accordance with the other provisions of this section, but such witness cannot be questioned about the testimony or other proceedings before any investigation or before any committee.

(3) Nothing in this section shall limit authority otherwise provided by law of a health care licensing board of the state of Missouri to obtain information by subpoena or other authorized process from investigation committees or to require disclosure of otherwise confidential information relating to matters and investigations within the jurisdiction of such health care licensing boards; provided, however, that such information, once obtained by such board and associated persons, shall be governed in accordance with the provisions of this subsection.

(4) Nothing in this section shall limit authority otherwise provided by law in subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to records by the entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. Sections 15042 to 15044 and the entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. 10801. In addition, nothing in this section shall serve to negate assurances that have been given by the governor of Missouri to the U.S. Administration on Developmental Disabilities, Office of Human Development Services, Department of Health and Human Services concerning access to records by the agency designated as the protection and advocacy system for the state of Missouri. However, such information, once obtained by such entity or agency, shall be governed in accordance with the provisions of this subsection.

4. Anyone who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil liability for making such a report or for testifying unless such person acted in bad faith or with malicious purpose.

5. Within five working days after a report required to be made pursuant to this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

6. No person who directs or exercises any authority in a residential facility, day program or specialized service shall evict, harass, dismiss or retaliate against a patient, resident or client or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the facility which he or she has reasonable cause to believe has been committed or has occurred.

7. Any person who is discharged as a result of an administrative substantiation of allegations contained in a report of abuse or neglect may, after exhausting administrative remedies as provided in chapter 36, appeal such decision to the circuit court of the county in which such person resides within ninety days of such final administrative decision. The court may accept an appeal up to twenty-four months after the party filing the appeal received notice of the department's determination, upon a showing that:

(1) Good cause exists for the untimely commencement of the request for the review;

(2) If the opportunity to appeal is not granted it will adversely affect the party's opportunity for employment; and

(3) There is no other adequate remedy at law.

630.183. OFFICERS MAY AUTHORIZE MEDICAL TREATMENT FOR PATIENT. — Subject to other provisions of this chapter, the head of a mental health or **[**mental retardation**] developmental disability** facility may authorize the medical and surgical treatment of a patient or resident under the following circumstances:

(1) Upon consent of a patient or resident who is competent;

(2) Upon consent of a parent or legal guardian of a patient or resident who is a minor or legally incapacitated;

(3) Pursuant to the provisions of chapter 431;

(4) Pursuant to an order of a court of competent jurisdiction.

630.192. LIMITATIONS ON RESEARCH ACTIVITIES IN MENTAL HEALTH FACILITIES AND PROGRAMS. — No biomedical or pharmacological research shall be conducted in any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632 or in any public or private residential facilities or day programs operated, funded or licensed by the department for persons affected by **[**mental retardation**] intellectual disabilities**, developmental disabilities, mental illness, mental disorders or alcohol or drug abuse unless such research is intended to alleviate or prevent the disabling conditions or is reasonably expected to be of direct therapeutic benefit to the participants. Without a specific court order, no involuntary patient shall consent to participate in any biomedical or pharmacological research. The application for the order shall be filed in the court having probate jurisdiction in the county in which the mental health facility is located, provided, however, that if the patient requests that the hearing be held by the court which has committed the patient, or if the court having probate jurisdiction deems it appropriate, the hearing on the application shall be transferred to the committing court.

630.210. CHARGES FOR PAY PATIENTS — EACH FACILITY CONSIDERED A SEPARATE UNIT — DIRECTOR TO DETERMINE RULES FOR MEANS TEST AND DOMICILE VERIFICATION — FAILURE TO PAY, EFFECT — EXCEPTIONS, EMERGENCY TREATMENT FOR TRANSIENTS — WAIVER OF MEANS TEST FOR CERTAIN CHILDREN, WHEN. — 1. The director shall determine the maximum amount for services which shall be charged in each of the residential

facilities, day programs or specialized services operated or funded by the department for full-time or part-time inpatient, resident or outpatient evaluation, care, treatment, habilitation, rehabilitation or other service rendered to persons affected by mental disorder, mental illness, **[**mental retardation,**] intellectual disability,** developmental disability**,** or drug or alcohol abuse. The maximum charge shall be related to the per capita inpatient cost or actual outpatient evaluation or other service costs of each facility, program or service, which may vary from one locality to another. The director shall promulgate rules setting forth a reasonable standard means test which shall be applied by all facilities, programs and services operated or funded by the department in determining the amount to be charged to persons receiving services. The department shall pay, out of funds appropriated to it for such purpose, all or part of the costs for the evaluation, care, treatment, habilitation, rehabilitation or room and board provided or arranged by the department for any patient, resident or client who is domiciled in Missouri and who is unable to pay fully for services.

2. The director shall apply the standard means test annually and may make application of the test upon his own initiative or upon request of an interested party whenever evidence is offered tending to show that the current support status of any patient, resident or client is no longer proper. Any change of support status shall be retroactive to the date of application or request for review. If the persons responsible to pay under section 630.205 or 552.080 refuse to cooperate in providing information necessary to properly apply the test or if retroactive benefits are paid on behalf of the patient, resident or client, the charges may be retroactive to a date prior to the date of application or request for review. The decision of the director in determining the amount to be charged for services to a patient, resident or client shall be final. Appeals from the determination may be taken to the circuit court of Cole County or the county where the person responsible for payment resides in the manner provided by chapter 536.

3. The department shall not pay for services provided to a patient, resident or client who is not domiciled in Missouri unless the state is fully reimbursed for the services; except that the department may pay for services provided to a transient person for up to thirty days pending verification of his domiciliary state, and for services provided for up to thirty days in an emergency situation. The director shall promulgate rules for determination of the domiciliary state of any patient, resident or client receiving services from a facility, program or service operated or funded by the department.

4. Whenever a patient, resident or client is receiving services from a residential facility, day program or specialized service operated or funded by the department, and the state, county, municipality, parent, guardian or other person responsible for support of the patient, resident or client fails to pay any installment required to be paid for support, the department or the residential facility, day program or specialized service may discharge the patient, resident or client as provided by chapter 31. The patient, resident or client shall not be discharged under this subsection until the final disposition of any appeal filed under subsection 2 of this section.

5. The standard means test may be waived for a child in need of mental health services to avoid inappropriate custody transfers to the children's division. The department of mental health shall notify the child's parent or custodian that the standard means test may be waived. The department of mental health shall promulgate rules for waiving the standard means test. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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.

630.335. CANTEENS AND COMMISSARIES AUTHORIZED — OPERATION. — 1. With the approval of the director, the head of any of the department's mental health or **[**mental retardation**]**

developmental disability facilities or regional centers may establish and operate a canteen or commissary for the use and benefit of patients, residents and employees.

2. Each facility or center shall keep revenues received from the canteen or commissary established and operated by the head of the facility in a separate account. The acquisition cost of goods sold and other expenses shall be paid from this account. A minimum amount of money necessary to meet cash flow needs and current operating expenses may be kept in this account. The remaining funds from sales of each commissary or canteen shall be deposited monthly in the state treasury to the credit of the mental health trust fund. The money in the fund shall be expended, upon appropriation, for the benefit of the patients in the improvement of the recreation, habilitation or treatment services or equipment of the facility or center from which derived. The provisions of section 33.080 to the contrary notwithstanding, the money in the mental health trust fund shall be retained for the purposes specified in this section and shall not revert or be transferred to general revenue. The department of mental health shall keep accurate records of the source of money deposited in the mental health trust fund and shall allocate appropriations from the fund to the appropriate institution, facility or center.

630.405. PURCHASE OF SERVICES, PROCEDURE — COMMISSIONER OF ADMINISTRATION TO COOPERATE — RULES, PROCEDURE. — 1. The department may purchase services for patients, residents or clients from private and public vendors in this state with funds appropriated for this purpose.

2. Services that may be purchased may include prevention, diagnosis, evaluation, treatment, habilitation, rehabilitation, transportation and other special services for persons affected by mental disorders, mental illness, **[**mental retardation,**] intellectual disabilities,** developmental disabilities or alcohol or drug abuse.

3. The commissioner of administration, in consultation with the director, shall promulgate rules establishing procedures consistent with the usual state purchasing procedures pursuant to chapter 34 for the purchase of services pursuant to this section. The commissioner may authorize the department to purchase any technical service which, in his judgment, can best be purchased direct pursuant to chapter 34. The commissioner shall cooperate with the department to purchase timely services appropriate to the needs of the patients, residents or clients of the department.

4. The commissioner of administration may promulgate rules authorizing the department to review, suspend, terminate, or otherwise take remedial measures with respect to contracts with vendors as defined in subsection 1 of this section that fail to comply with the requirements of section 210.906.

5. The commissioner of administration may promulgate rules for a waiver of chapter 34 bidding procedures for the purchase of services for patients, residents and clients with funds appropriated for that purpose if, in the commissioner's judgment, such services can best be purchased directly by the department.

6. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

630.425. INCENTIVE GRANTS AUTHORIZED — RULES AND REGULATIONS — DURATION OF GRANTS. — 1. The department may make incentive grants from funds specifically appropriated for this purpose to private and public entities seeking to establish a residential facility, day program or specialized service for persons affected by mental disorders, mental illness, **[**mental retardation,**] intellectual disabilities,** developmental disabilities or alcohol or drug abuse in unserved, underserved or inappropriately served areas of the state.

2. The department shall promulgate rules establishing procedures for monitoring and auditing such grants.

3. The grants shall be of limited duration of one year and renewable for only one additional year if the funds are appropriated for this purpose.

630.510. INVENTORY OF FACILITIES — PLAN FOR NEW FACILITIES. — At least once every three years, the department shall conduct a complete statewide inventory of its existing facilities and a survey of needs for persons affected by mental disorders, mental illness, **[**mental retardation,**] intellectual disabilities,** developmental disabilities and alcohol or drug abuse, and shall make a public report of its inventory and survey and recommend a state plan for the construction of additional facilities.

630.605. PLACEMENT PROGRAMS TO BE MAINTAINED. — The department shall establish a placement program for persons affected by a mental disorder, mental illness, **[**mental retardation,**] intellectual disability,** developmental disability or alcohol or drug abuse. The department may utilize residential facilities, day programs and specialized services which are designed to maintain a person who is accepted in the placement program in the least restrictive environment in accordance with the person's individualized treatment, habilitation or rehabilitation plan. The department shall license, certify and fund, subject to appropriations, a continuum of facilities, programs and services short of admission to a department facility to accomplish this purpose.

630.610. APPLICATIONS FOR PLACEMENT — CRITERIA TO BE CONSIDERED. — 1. If the head of a facility operated by the department determines that placement out of the facility would be appropriate for any patient or resident, the head of the facility shall refer the patient or resident for placement according to the department's rules. If a patient or resident is accepted and placed under this chapter, then the patient or resident shall be considered as discharged as a patient or resident of the facility and reclassified as a client of the department.

2. Any person, his authorized representative, his parent, if the person is a minor, his guardian, a court of competent jurisdiction or a state or private facility or agency having custody of the person may apply for placement of the person under this chapter.

3. If the department finds the application to be appropriate after review, it shall provide for or arrange for a comprehensive evaluation, and the preparation of an individualized treatment, habilitation or rehabilitation plan of the person seeking to be placed, whether from a department facility or directly, to determine if he meets the following criteria:

(1) The person is affected by a mental disorder, mental illness, **[**mental retardation,**] intellectual disability,** developmental disability or alcohol or drug abuse; and

(2) The person is in need of special care, treatment, habilitation or rehabilitation services as described in this chapter, including room or board, or both; provided, however, that no person shall be accepted for placement if the sole reason for the application or referral is that residential placement is necessary for a school-aged child, as defined in chapter 162, to receive an appropriate special education.

630.635. PROCEDURE WHEN CONSENT NOT GIVEN — REVIEW PANEL TO BE NAMED — NOTICE AND HEARING REQUIRED — APPEAL — EMERGENCY TRANSFERS MAY BE MADE. — 1. If a resident in a **[**mental retardation**] developmental disability** facility, or his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement, the head of the **[**mental retardation**] developmental disability** facility may petition, under the procedures in section 633.135, the director of the division of **[**mental retardation and**]** developmental disabilities to determine whether the proposed placement is appropriate under chapter 633.

2. If a patient in a mental health facility, or his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement, the head of the mental health facility may petition the director of the division of comprehensive psychiatric services to determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620.

3. The director of the division of comprehensive psychiatric services shall refer the petition to the chairman of the state advisory council for his division who shall appoint and convene a review panel composed of three members. At least one member of the panel shall be a family

member or guardian of a patient who resides in a mental health facility operated by the department. The remaining members of the panel shall be persons who are from nongovernmental organizations or groups concerned with the prevention of mental disorders, evaluation, care, treatment or rehabilitation of persons affected by the same conditions as the patient the department seeks to place and who are familiar with services and service needs of persons in mental health facilities operated by the department. No member of the panel shall be an officer or employee of the department.

4. After prompt notice and hearing, the panel shall determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620. The hearing shall be electronically recorded for purposes of obtaining a transcript. The council shall forward the tape recording, recommended findings of fact, conclusions of law, and decision to the director who shall enter findings of fact, conclusions of law, and the final decision. Notice of the director's decision shall be sent to the patient, or his parent if he is a minor, or his guardian by registered mail, return receipt requested. The director shall expedite this review in all respects.

5. If the patient, or his parent if he is a minor, or his guardian disagrees with the decision of the director, he may appeal the decision, within thirty days after notice of the decision is sent, to the circuit court of the county where the patient or resident, or his parent if he is a minor, or his guardian resides. The court shall review the record, proceedings and decision of the director not only under the provisions of chapter 536, but also as to whether or not the head of the facility or the department sustained its burden of proof that the proposed placement is appropriate under sections 630.110, 630.115 and 630.120. The court shall expedite this review in all respects. Notwithstanding the provisions of section 536.140, a court may, for good cause shown, hear and consider additional competent and material evidence.

6. The notice and procedure for the hearing by the panel shall be in accordance with chapter 536.

7. In all proceedings either before the panel or before the circuit court, the burden of proof shall be upon the head of the facility to demonstrate by a preponderance of evidence that the proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615 and 630.120.

8. Pending the convening of the hearing panel and the final decision of the director or the court if the director's decision is appealed, the department shall not place or discharge the patient from a facility except that the department may temporarily transfer such patient in the case of a medical emergency.

9. There shall be no retaliation against any state employee as the result of a good faith decision to place the patient which is appealed and who testifies during a hearing or otherwise provides information or evidence in regard to a proposed placement.

630.705. RULES FOR STANDARDS FOR FACILITIES AND PROGRAMS FOR PERSONS AFFECTED BY MENTAL DISORDER, MENTAL ILLNESS, OR DEVELOPMENTAL DISABILITY — CLASSIFICATION OF FACILITIES AND PROGRAMS — CERTAIN FACILITIES AND PROGRAMS NOT TO BE LICENSED. — 1. The department shall promulgate rules setting forth reasonable standards for residential facilities and day programs for persons who are affected by a mental disorder, mental illness, **[**mental retardation**] intellectual disability,** or developmental disability.

2. The rules shall provide for the facilities and programs to be reasonably classified as to resident or client population, size, type of services or other reasonable classification. The department shall design the rules to promote and regulate safe, humane and adequate facilities and programs for the care, treatment, habilitation and rehabilitation of persons described in subsection 1 of this section.

3. The following residential facilities and day programs shall not be licensed by the department:

(1) Any facility or program which relies solely upon the use of prayer or spiritual healing;

(2) Any educational, special educational or vocational program operated, certified or approved by the state board of education pursuant to chapters 161, 162 and 178, and regulations promulgated by the board;

(3) Any hospital, facility, program or entity operated by this state or the United States; except that facilities operated by the department shall meet these standards;

(4) Any hospital, facility or other entity, excluding those with persons who are mentally retarded and developmentally disabled as defined in section 630.005 otherwise licensed by the state and operating under such license and within the limits of such license, unless the majority of the persons served receive activities and services normally provided by a licensed facility pursuant to this chapter;

(5) Any hospital licensed by the department of social services as a psychiatric hospital pursuant to chapter 197;

(6) Any facility or program accredited by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, Accreditation Council for Services for Mentally Retarded or other Developmentally Disabled Persons, Council on Accreditation of Services for Children and Families, Inc., or the Commission on Accreditation of Rehabilitation Facilities;

(7) Any facility or program caring for less than four persons whose care is not funded by the department.

630.715. LICENSING OF RESIDENTIAL FACILITIES AND DAY PROGRAMS — FEE — AFFIDAVIT. — 1. The department shall establish a procedure for the licensing of residential facilities and day programs for persons described in section 630.705, which procedure shall provide for the acceptance of a license, a temporary operating permit or a probationary license issued by the department of social services under sections 198.006 to 198.096 as regards the licensing requirements in the following areas:

(1) General medical and health care;

(2) Adequate physical plant facilities including fire safety, housekeeping and maintenance standards;

(3) Food service facilities;

(4) Safety precautions;

(5) Drugs and medications;

(6) Uniform system of record keeping;

(7) Resident and client rights and grievance procedures.

However, the department shall require annually that any facilities and programs already licensed by the department of social services under chapter 198 which desire to provide services to persons diagnosed **[**as mentally disordered, mentally ill, mentally retarded or developmentally disabled**] with a mental disorder, mental illness, or developmental disability** in accordance with sections 630.705 to 630.760 meet the department's requirements in excess of those required for licensure or certification under chapter 198, which are appropriate to admission criteria and care, treatment, habilitation and rehabilitation needs of such persons.

2. Applications for licenses shall be made to the department upon forms provided by it and shall contain such information and documents as the department requires, including, but not limited to, affirmative evidence of ability to comply with the rules adopted by the department. Each application for a license, except applications from a governmental unit or a facility caring for less than four persons, which shall not pay any fee, shall be accompanied by a license fee of ten dollars for establishments which accept more than three but less than ten persons and fifty dollars from establishments which accept ten or more. The license fee shall be paid to the director of revenue for deposit to the general revenue fund of the state treasury.

3. An applicant for a license shall submit an affidavit under oath that all documents required by the department to be filed pursuant to this section are true and correct to the best of his

knowledge and belief, that the statements contained in the application are true and correct to the best of his knowledge and belief and that all required documents are either included with the application or are currently on file with the department.

630.735. LICENSE REQUIRED. — 1. No person or governmental unit, acting separately or jointly with any other person or governmental unit, shall establish, conduct or maintain any residential facility in this state for the care, treatment, habilitation or rehabilitation of **[**mentally retarded or developmentally disabled**]** persons **with an intellectual disability or a developmental disability** without a valid license issued by the department. Licenses in effect on August 13, 1982, shall continue in effect until they regularly expire unless sooner revoked; except that in no case shall a license continue in effect beyond one year after August 13, 1982.

2. After October 1, 1983, no person or governmental unit, acting separately or jointly with any other person or governmental unit, shall establish, conduct or maintain any residential facility or day program in this state for care, treatment, habilitation or rehabilitation of persons diagnosed **[**as mentally disordered or mentally ill**]** **with a mental disorder or mental illness** or day program for **[**mentally retarded or developmentally disabled**]** persons **with an intellectual disability or an developmental disability** unless the facilities or programs are licensed by the department.

632.005. DEFINITIONS. — As used in chapter 631 and this chapter, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Comprehensive psychiatric services", any one, or any combination of two or more, of the following services to persons affected by mental disorders other than **[**mental retardation or**]** **intellectual disabilities** or developmental disabilities: inpatient, outpatient, day program or other partial hospitalization, emergency, diagnostic, treatment, liaison, follow-up, consultation, education, rehabilitation, prevention, screening, transitional living, medical prevention and treatment for alcohol abuse, and medical prevention and treatment for drug abuse;

(2) "Council", the Missouri advisory council for comprehensive psychiatric services;

(3) "Court", the court which has jurisdiction over the respondent or patient;

(4) "Division", the division of comprehensive psychiatric services of the department of mental health;

(5) "Division director", director of the division of comprehensive psychiatric services of the department of mental health, or his designee;

(6) "Head of mental health facility", superintendent or other chief administrative officer of a mental health facility, or his designee;

(7) "Judicial day", any Monday, Tuesday, Wednesday, Thursday or Friday when the court is open for business, but excluding Saturdays, Sundays and legal holidays;

(8) "Licensed physician", a physician licensed pursuant to the provisions of chapter 334 or a person authorized to practice medicine in this state pursuant to the provisions of section 334.150;

(9) "Licensed professional counselor", a person licensed as a professional counselor under chapter 337 and with a minimum of one year training or experience in providing psychiatric care, treatment, or services in a psychiatric setting to individuals suffering from a mental disorder;

(10) "Likelihood of serious harm" means any one or more of the following but does not require actual physical injury to have occurred:

(a) A substantial risk that serious physical harm will be inflicted by a person upon his own person, as evidenced by recent threats, including verbal threats, or attempts to commit suicide or inflict physical harm on himself. Evidence of substantial risk may also include information about patterns of behavior that historically have resulted in serious harm previously being inflicted by a person upon himself;

(b) A substantial risk that serious physical harm to a person will result or is occurring because of an impairment in his capacity to make decisions with respect to his hospitalization

and need for treatment as evidenced by his current mental disorder or mental illness which results in an inability to provide for his own basic necessities of food, clothing, shelter, safety or medical care or his inability to provide for his own mental health care which may result in a substantial risk of serious physical harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in serious harm to the person previously taking place because of a mental disorder or mental illness which resulted in his inability to provide for his basic necessities of food, clothing, shelter, safety or medical or mental health care; or

(c) A substantial risk that serious physical harm will be inflicted by a person upon another as evidenced by recent overt acts, behavior or threats, including verbal threats, which have caused such harm or which would place a reasonable person in reasonable fear of sustaining such harm. Evidence of that substantial risk may also include information about patterns of behavior that historically have resulted in physical harm previously being inflicted by a person upon another person;

(11) "Mental health coordinator", a mental health professional who has knowledge of the laws relating to hospital admissions and civil commitment and who is authorized by the director of the department, or his designee, to serve a designated geographic area or mental health facility and who has the powers, duties and responsibilities provided in this chapter;

(12) "Mental health facility", any residential facility, public or private, or any public or private hospital, which can provide evaluation, treatment and, inpatient care to persons suffering from a mental disorder or mental illness and which is recognized as such by the department or any outpatient treatment program certified by the department of mental health. No correctional institution or facility, jail, regional center or **[**mental retardation**] developmental disability** facility shall be a mental health facility within the meaning of this chapter;

(13) "Mental health professional", a psychiatrist, resident in psychiatry, psychologist, psychiatric nurse, licensed professional counselor, or psychiatric social worker;

(14) "Mental health program", any public or private residential facility, public or private hospital, public or private specialized service or public or private day program that can provide care, treatment, rehabilitation or services, either through its own staff or through contracted providers, in an inpatient or outpatient setting to persons with a mental disorder or mental illness or with a diagnosis of alcohol abuse or drug abuse which is recognized as such by the department. No correctional institution or facility or jail may be a mental health program within the meaning of this chapter;

(15) "Ninety-six hours" shall be construed and computed to exclude Saturdays, Sundays and legal holidays which are observed either by the court or by the mental health facility where the respondent is detained;

(16) "Peace officer", a sheriff, deputy sheriff, county or municipal police officer or highway patrolman;

(17) "Psychiatric nurse", a registered professional nurse who is licensed under chapter 335 and who has had at least two years of experience as a registered professional nurse in providing psychiatric nursing treatment to individuals suffering from mental disorders;

(18) "Psychiatric social worker", a person with a master's or further advanced degree from an accredited school of social work, practicing pursuant to chapter 337, and with a minimum of one year training or experience in providing psychiatric care, treatment or services in a psychiatric setting to individuals suffering from a mental disorder;

(19) "Psychiatrist", a licensed physician who in addition has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

(20) "Psychologist", a person licensed to practice psychology under chapter 337 with a minimum of one year training or experience in providing treatment or services to mentally disordered or mentally ill individuals;

(21) "Resident in psychiatry", a licensed physician who is in a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program certified as equivalent by the department;

(22) "Respondent", an individual against whom involuntary civil detention proceedings are instituted pursuant to this chapter;

(23) "Treatment", any effort to accomplish a significant change in the mental or emotional conditions or the behavior of the patient consistent with generally recognized principles or standards in the mental health professions.

632.105. ADULTS TO BE ACCEPTED FOR EVALUATION, WHEN, BY WHOM — MAY THEN BE ADMITTED TO MENTAL HEALTH FACILITY — CONSENT REQUIRED. — 1. The head of a private mental health facility may, and the head of a department mental health facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation, on an outpatient basis if practicable, any person eighteen years of age or over who applies for his admission. The department may require that a community-based service where the person resides perform the evaluation pursuant to an affiliation agreement and contract with the department.

2. If a person is diagnosed as having a mental disorder, other than **[**mental retardation**] an intellectual disability** or developmental disability without another accompanying mental disorder, and is determined to be in need of inpatient treatment, the person may be admitted by a private mental health facility and shall be admitted by a department mental health facility, if suitable accommodations are available, for care and treatment as an inpatient for such periods and under such conditions as authorized by law. The department may require that a community-based service where the patient resides admit the person for inpatient care and treatment pursuant to an affiliation agreement and contract with the department.

3. A person who is admitted under this section is a voluntary patient and shall have the right to consent to evaluation, care, treatment and rehabilitation and shall not be medicated without his prior voluntary and informed consent; except that medication may be given in emergency situations.

632.110. MINORS TO BE ACCEPTED FOR EVALUATION, WHEN, BY WHOM — MAY THEN BE ADMITTED TO MENTAL HEALTH FACILITY — PARENT OR GUARDIAN TO CONSENT — PEACE OFFICER MAY TRANSPORT TO FACILITY, WHEN. — 1. The head of a private mental health facility may, and the head of a department mental health facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation, on an outpatient basis if practicable, any minor for whom an application for voluntary admission is made by his parent or other legal custodian. The department may require that a community-based service where the minor resides perform the evaluation pursuant to an affiliation agreement or contract with the department.

2. If the minor is diagnosed as having a mental disorder, other than **[**mental retardation**] an intellectual disability** or developmental disability without another accompanying mental disorder, and found suitable for inpatient treatment as a result of the evaluation, the minor may be admitted by a private mental health facility or shall be admitted by a department mental health facility, if suitable accommodations are available, for care, treatment and rehabilitation as an inpatient for such periods and under such conditions as authorized by law. The department may require that a community-based service where the patient resides admit the person for inpatient care, treatment and rehabilitation pursuant to an affiliation agreement and contract with the department.

3. The parent or legal custodian who applied for the admission of the minor shall have the right to authorize his evaluation, care, treatment and rehabilitation and the right to refuse permission to medicate the minor; except that medication may be given in emergency situations.

4. The parent or legal custodian may request a peace officer to take a minor into custody and transport him to the mental health facility for evaluation if the parent or legal custodian applies for such evaluation under subsection 1 of this section.

632.115. JUVENILES TO BE ADMITTED BY HEADS OF FACILITIES WHEN COMMITTED. — The head of a private mental health facility may, and the head of a public mental health facility shall, except in the case of medical emergency and subject to the availability of suitable programs and accommodations, admit any minor who has symptoms of mental disorder other than **[**mental retardation**] an intellectual disability** or developmental disability, who is under the jurisdiction of a juvenile court and who is committed to a facility not operated by the state of Missouri under section 211.181 or to the custody of the director pursuant to sections 211.201 to 211.207 for assignment by the director to an appropriate facility.

632.120. INCOMPETENTS TO BE ACCEPTED BY HEADS OF FACILITIES UPON APPLICATION — DURATION OF ADMISSION FOR EVALUATION — CONSENT MAY BE AUTHORIZED. — 1. The head of a private mental health facility may, and the head of a department facility shall, except in the case of a medical emergency and subject to the availability of suitable programs and accommodations, accept for evaluation and treatment, on an outpatient basis if practicable, any person who has been declared incapacitated by a court of competent jurisdiction and for whom an application for voluntary admission is made by his guardian. The department may require that a community-based service where the person resides perform the evaluation pursuant to an affiliation agreement and contract with the department.

2. If the person is diagnosed as having a mental disorder, other than **[**mental retardation or**]** developmental disability without another accompanying mental disorder, and the person is found suitable for inpatient treatment as a result of the evaluation, the person may be admitted by a private mental health facility or shall be admitted by a public mental health facility, if suitable accommodations are available, for care, treatment and rehabilitation as an inpatient for up to thirty days after admission for evaluation and treatment.

3. If further inpatient services are recommended, the person may remain in the facility only if his guardian is authorized by the court to continue the inpatient hospitalization. The court may authorize the guardian to consent to evaluation, care, treatment, including medication, and rehabilitation on an inpatient basis.

632.370. TRANSFER OF PATIENT BY DEPARTMENT — HEARING ON TRANSFER OF MINOR TO ADULT WARD — CONSENT REQUIRED — NOTICE TO BE GIVEN — CONSIDERATIONS — TRANSFER TO FEDERAL FACILITY, NOTICE, RESTRICTIONS. — 1. The department may transfer, or authorize the transfer of, an involuntary patient detained under this chapter, chapter 211, chapter 475, or chapter 552 from one mental health program to another if the department determines that it would be consistent with the medical needs of the patient to do so. If a minor is transferred from a ward for minors to an adult ward, the department shall conduct a due process hearing within six days of such transfer during which hearing the head of the program shall have the burden to show that the transfer is appropriate for the medical needs of the minor. Whenever a patient is transferred, written notice thereof shall be given after obtaining the consent of the patient, his parent if he is a minor or his legal guardian to his legal guardian, parents and spouse, or, if none be known, his nearest known relative or friend. In all such transfers, due consideration shall be given to the relationship of the patient to his family, legal guardian or friends, so as to maintain relationships and encourage visits beneficial to the patient. The head of the mental health program shall notify the court ordering detention or commitment, the patient's last known attorney of record and the mental health coordinator for the region, and if the person was committed pursuant to chapter 552, to the prosecuting attorney of the jurisdiction where the person was tried and acquitted, of any transfer from one mental health facility to another. The prosecutor of the jurisdiction where the person was tried and acquitted shall use

their best efforts to notify the victims of dangerous felonies. Notification by the appropriate person or agency by certified mail to the most current address provided by the victim shall constitute compliance with the victim notification requirement of this section. In the case of a patient committed under chapter 211, the court, on its own motion, may hold a hearing on the transfer to determine whether such transfer is appropriate to the medical needs of the patient.

2. Upon receipt of a certificate of an agency of the United States that facilities are available for the care or treatment of any individual heretofore ordered involuntarily detained, treated and evaluated pursuant to this chapter in any facility for the care or treatment of **[**the mentally ill, mentally retarded or developmentally disabled**] persons with a mental illness or an intellectual disability or a developmental disability** and that such individual is eligible for care or treatment in a hospital or institution of such agency, the department may cause his transfer to such agency of the United States for hospitalization. Upon effecting any such transfer, the court ordering hospitalization, the legal guardian, spouse and parents, or, if none be known, his nearest known relative or friend shall be notified thereof immediately by the department. No person shall be transferred to an agency of the United States if he is confined pursuant to a conviction for any felony or misdemeanor or if he has been acquitted of any felony or misdemeanor solely on the ground of mental illness, unless prior to transfer the court originally ordering confinement of such person enters an order for the transfer after appropriate motion and hearing. Any person transferred to an agency of the United States shall be deemed to be hospitalized by such agency pursuant to the original order of hospitalization.

632.380. PROVISIONS OF CHAPTER NOT TO APPLY TO CERTAIN PERSONS. — Persons **[**who are mentally retarded, developmentally disabled,**] with an intellectual disability or a developmental disability or who are** senile or impaired by alcoholism or drug abuse shall not be detained judicially under this chapter, unless they are also mentally ill and as a result present likelihood of serious harm to themselves or to others. Such persons may, however, be committed upon court order under this chapter and the provisions of chapter 475 relating to incapacitated persons, pursuant to chapter 211 relating to juveniles, or may be admitted as voluntary patients under section 632.105 or 632.120.

633.005. DEFINITIONS. — As used in this chapter, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Comprehensive evaluation", a study, including a sequence of observations and examinations, of an individual leading to conclusions and recommendations formulated jointly by an interdisciplinary team of persons with special training and experience in the diagnosis and habilitation of **[**the mentally retarded and developmentally disabled**] a person with an intellectual disability or a developmental disability**;

(2) "Division", the division of **[**mental retardation and**]** developmental disabilities of the department of mental health;

(3) "Division director", the director of the division of **[**mental retardation and**]** developmental disabilities of the department of mental health, or his designee;

(4) "Group home", a residential facility serving nine or fewer residents, similar in appearance to a single-family dwelling and providing basic health supervision, habilitation training in skills of daily and independent living and community integration, and social support. Group homes do not include a family living arrangement or individualized supported living;

(5) "**[**Mental retardation**] Developmental disability** facility", a private or department facility, other than a regional center, which admits persons **[**who are mentally retarded or developmentally disabled**] with an intellectual disability or a developmental disability** for residential habilitation and other services and which is qualified or licensed as such by the department pursuant to chapter 630. Such terms shall include, but shall not be limited to, habilitation centers and private or public residential facilities for persons **[**who are developmentally disabled**] with an intellectual disability or a developmental disability**;

(6) "Regional center", an entity so designated by the department to provide, directly or indirectly, for comprehensive **[**mental retardation and**]** developmental disability services under this chapter in a particular region;

(7) "Respite care", temporary and short-term residential care, sustenance and supervision of a **[**mentally retarded or developmentally disabled**]** person **with an intellectual disability or a developmental disability** who otherwise resides in a family home;

(8) "State advisory council", the Missouri **[**advisory council on mental retardation and**]** developmental disabilities **council** as created in section 633.020.

633.010. RESPONSIBILITIES, POWERS, FUNCTIONS AND DUTIES OF DIVISION. — 1. The division of **[**mental retardation and**]** developmental disabilities, created by the omnibus reorganization act of 1974, section 9, appendix B, RSMo, shall be a division of the department. The division shall have the responsibility of insuring that **[**mental retardation**] intellectual disabilities** and developmental disabilities prevention, evaluation, care, habilitation and rehabilitation services are accessible, wherever possible. The division shall have and exercise supervision of division residential facilities, day programs and other specialized services operated by the department, and oversight over facilities, programs and services funded or licensed by the department.

2. The powers, functions and duties of the division shall include the following:

(1) Provision of funds for the planning and implementation of accessible programs to serve persons affected by **[**mental retardation or**] intellectual disabilities and** developmental disabilities;

(2) Review of **[**mental retardation and**]** developmental disabilities plans submitted to receive state and federal funds allocated by the department;

(3) Provision of technical assistance and training to community-based programs to assist in the planning and implementation of quality services;

(4) Assurance of program quality in compliance with such appropriate standards as may be established by the department;

(5) Sponsorship and encouragement of research into the causes, effects, prevention, habilitation and rehabilitation of **[**mental retardation and**] intellectual disabilities and** developmental disabilities;

(6) Provision of public information relating to **[**mental retardation and**]** developmental disabilities and their habilitation;

(7) Cooperation with nonstate governmental agencies and the private sector in establishing, conducting, integrating and coordinating **[**mental retardation and**]** developmental disabilities programs and projects;

(8) Cooperation with other state agencies to encourage appropriate health facilities to serve, without discrimination, persons **[**who are mentally retarded or developmentally disabled**] with an intellectual disability or a developmental disability** who require medical care and to provide them with adequate and appropriate services;

(9) Participation in developing and implementing a statewide plan to alleviate problems relating to **[**mental retardation and**]** developmental disabilities and to overcome the barriers to their solutions;

(10) Encouragement of coordination of division services with other divisions of the department and other state agencies;

(11) Encouragement of the utilization, support, assistance and dedication of volunteers to assist persons affected by **[**mental retardation and**] intellectual disabilities or** developmental disabilities to be accepted and integrated into normal community activities;

(12) Evaluation, or the requirement of the evaluation, including the collection of appropriate necessary information, of **[**mental retardation or**]** developmental disabilities programs to determine their cost-and-benefit effectiveness;

(13) Participation in developing standards for residential facilities, day programs and specialized services operated, funded or licensed by the department for persons affected by **[**mental retardation or**]** developmental disabilities.

633.020. ADVISORY COUNCIL ON DEVELOPMENTAL DISABILITIES — MEMBERS, NUMBER, TERMS, QUALIFICATIONS, APPOINTMENT — ORGANIZATION, MEETINGS — DUTIES. — 1. The "Missouri **[**Advisory Council on Mental Retardation and**]** Developmental Disabilities **Council**", consisting of up to twenty-five members, the number to be determined under the council bylaws, is hereby created to advise the division and the division director.

2. The members of the Missouri planning council for developmental disabilities, created by executive order of the governor on October 26, 1979, for the remainder of their appointed terms, and up to five persons to be appointed by the director, for staggered terms of three years each, shall act as such advisory body. At the expiration of the term of each member, the director shall appoint an individual who shall hold office for a term of three years. At least one-half of the members shall be consumers. Other members shall have professional, research or personal interest in **[**mental retardation**] intellectual disabilities** and developmental disabilities. At least one member shall be a manager of or a member of the board of directors of a sheltered workshop as defined in section 178.900. No more than one-fourth of the members shall be vendors or members of boards of directors, employees or officers of vendors, or any of their spouses, if such vendors receive more than fifteen hundred dollars under contract with the department; except that members of boards of directors of not-for-profit corporations shall not be considered members of board of directors of vendors under this subsection.

3. Meetings shall be held at least every ninety days or at the call of the division director or the council chairman, who shall be elected by the council.

4. Each member shall be reimbursed for reasonable and necessary expenses, including travel expenses, pursuant to department travel regulations, actually incurred in the performance of his official duties.

5. The council may be divided into subcouncils in accordance with its bylaws.

6. The council shall collaborate with the department in developing and administering a state plan for **[**mental retardation and**] intellectual disabilities and** developmental disabilities services.

7. No member of a state advisory council may participate in or seek to influence a decision or vote of the council if the member would be directly involved with the matter or if he would derive income from it. A violation of the prohibition contained herein shall be grounds for a person to be removed as a member of the council by the director.

8. The council shall be advisory and shall:

(1) Promote meetings and programs for the discussion of reducing the debilitating effects of **[**mental retardation and**] intellectual disabilities and** developmental disabilities and disseminate information in cooperation with any other department, agency or entity on the prevention, evaluation, care, treatment and habilitation for persons affected by **[**mental retardation or**] intellectual disabilities and** developmental disabilities;

(2) Study and review current prevention, evaluation, care, treatment and rehabilitation technologies and recommend appropriate preparation, training, retraining and distribution of manpower and resources in the provision of services to **[**mentally retarded or developmentally disabled**]** persons **with an intellectual disability or a developmental disability** through private and public residential facilities, day programs and other specialized services;

(3) Recommend what specific methods, means and procedures should be adopted to improve and upgrade the department's **[**mental retardation and**] intellectual disabilities and** developmental disabilities service delivery system for citizens of this state;

(4) Participate in developing and disseminating criteria and standards to qualify mental retardation or developmental disability residential facilities, day programs and other specialized services in this state for funding or licensing, or both, by the department.

633.029. DEFINITION TO DETERMINE STATUS OF ELIGIBILITY. — All persons determined eligible for services provided by the division of **[**mental retardation and**]** developmental disabilities prior to January 1, 1991, shall be eligible for services on the basis of their earlier determination of eligibility without regard to their eligibility status under the definition of developmental disability contained in section 630.005.

633.030. DEPARTMENT TO DEVELOP STATE PLAN, CONTENTS. — 1. The department shall prepare a state plan to secure coordinated **[**mental retardation and**] intellectual disabilities and** developmental disabilities habilitation services accessible to persons in need of them in defined geographic areas, which plan shall be reviewed and revised annually.

2. The state plan shall include, but not be limited to, the following:

(1) A needs-assessment of the state to determine underserved, unserved and inappropriately served populations and areas;

(2) Statements of short-term and long-term goals for meeting the needs of currently served, underserved, unserved or inappropriately served populations and areas of the state;

(3) An inventory of existing private and public residential facilities, day programs and other service providers offering **[**mental retardation or**] intellectual disability or** developmental disability evaluation and habilitation services;

(4) Evaluations of the effects of habilitation programs;

(5) Descriptions of the following:

(a) Methods for assuring active consumer-oriented citizen participation throughout the system;

(b) Strategies and procedures for encouraging, coordinating and integrating community-based services, wherever practicable, to avoid duplication by private, not-for-profit and public state and community-based providers of services;

(c) Methods for monitoring the quality of evaluation and habilitation services funded by the state;

(d) Rules which set standards for construction, staffing, operations and programs, as appropriate, for any public or private entity to meet for receiving state licensing, certification or funding; and

(e) Plans for addressing the particular **[**mental retardation and**] intellectual disability or** developmental disability service needs of each region, including special strategies for rural and urban unserved, underserved or inappropriately served populations in areas of the state.

3. In preparing the state plan, the department shall take into consideration its regional plans.

633.045. DUTIES OF REGIONAL ADVISORY COUNCILS — PLANS. — 1. Any regional advisory councils established under section 633.040 shall participate in the preparation of regional plans and annually review, advise on and recommend them before they are transmitted to the state advisory council and the division director. The plans shall include at least the following:

(1) An inventory of existing residential facilities, day programs and specialized services for **[**the mentally retarded and developmentally disabled**] persons with an intellectual disability or a developmental disability**;

(2) An assessment of needs, including any special target populations, of unserved, underserved or inappropriately served persons;

(3) A statement of specific goals for the region.

2. Any staff of such regional advisory councils shall be provided only from funds appropriated specifically for that purpose. This subsection shall become effective July 1, 1981.

633.050. REGIONAL COUNCILS TO REVIEW, ADVISE AND RECOMMEND — DUTIES. — 1. In addition to such other advisory functions as may be agreed upon with the division, the regional advisory councils shall review and advise on programs and policies of the regional

centers. The councils shall review, advise on, and recommend regional program budgets and shall report to the division director their findings as to their conformity with the regional plans before they are transmitted to the department to be considered for inclusion in the department budget request.

2. The regional councils may advise the department, the division and the regional centers on methods of operation and service delivery which will assure comprehensive services with the minimum amount of duplication, fragmentation and unnecessary expenditures. In making such proposals, the councils shall consider the most appropriate use of existing agencies and professional personnel providing residential facilities, day programs and other specialized services for **[**the mentally retarded and developmentally disabled**] persons with an intellectual disability or developmental disability** in their regions.

3. The duties of the regional advisory councils shall include:

(1) Determining the disbursement of the cash stipend as established in section 633.180 and the family support loan as established in section 633.185;

(2) Providing direction and assistance to the regional center in the development of a family support plan based upon the needs in the region;

(3) Approval of the regional family support plan;

(4) Monitoring the implementation of the family support plan;

(5) Providing an annual written report to the department of mental health regarding the activities of the family support council.

633.110. WHAT SERVICES MAY BE PROVIDED — CONSENT REQUIRED, WHEN. — 1. Any person suspected to **[**be mentally retarded or developmentally disabled**] have an intellectual disability or developmental disability** shall be eligible for initial diagnostic and counseling services through the regional centers.

2. If it is determined by a regional center through a comprehensive evaluation that a person **[**is mentally retarded or developmentally disabled**] has an intellectual disability or a developmental disability** so as to require the provision of services, and if such person, such person's parent, if the person is a minor, or legal guardian, requests that he be registered as a client of a regional center, the regional center shall, within the limits of available resources, secure a comprehensive program of any necessary services for such person. Such services may include, but need not be limited to, the following:

(1) Diagnosis and evaluation;

(2) Counseling;

(3) Respite care;

(4) Recreation;

(5) Habilitation;

(6) Training;

(7) Vocational habilitation;

(8) Residential care;

(9) Homemaker services;

(10) Developmental day care;

(11) Sheltered workshops;

(12) Referral to appropriate services;

(13) Placement;

(14) Transportation.

3. In securing the comprehensive program of services, the regional centers shall involve the client, his family or his legal guardian in decisions affecting his care, habilitation, placement or referral. Nothing in this chapter shall be construed as authorizing the care, treatment, habilitation, referral or placement of any **[**mentally retarded or developmentally disabled**]** person **with an intellectual disability or developmental disability** to any residential facility, day program or other specialized service without the written consent of the client, his parent, if he is a minor, or

his legal guardian, unless such care, treatment, habilitation, referral, or placement is authorized pursuant to an order of the court under the provisions of chapter 475.

633.115. ENTITIES TO BE USED BY REGIONAL CENTERS. — The regional center shall secure services for its clients in the least restrictive environment consistent with individualized habilitation plans. As a result of its comprehensive evaluation, the regional center shall utilize the following entities to secure services:

(1) Agencies serving persons not diagnosed **[**as mentally retarded or developmentally disabled**] with an intellectual disability or developmental disability** in which the client would be eligible to receive available services or in which the services could be made available to the client through the purchase of assistive or supportive services;

(2) Agencies serving **[**mentally retarded or developmentally disabled**]** persons **with an intellectual disability or developmental disability** in which the client would be eligible to receive available services or in which services could be made available to the client through the purchase of assistive or supportive services;

(3) The regional center on a day-program basis;

(4) The regional center for short-term residential services, not to exceed six months, unless expressly authorized for a longer period by the division director;

(5) A residential facility licensed through the department placement program, but not operated by the department;

(6) A **[**mental retardation**] developmental disability** facility operated by the department for clients who are **[**developmentally disabled or mentally retarded**] persons with an intellectual disability or developmental disability**.

633.120. REFERRAL FOR ADMISSION TO FACILITY, WHEN — ADMISSION OR REJECTION, APPEAL — CONSENT. — 1. A regional center may refer a client for admission to a **[**mental retardation**] developmental disability** facility only if determined by a comprehensive evaluation that:

(1) The person has a developmental disability;

(2) Protective services are required to guarantee the health, safety or mental well-being of the person;

(3) Placement in a **[**mental retardation**] developmental disability** facility is in the best interests of the person; and

(4) All other less restrictive services, including but not limited to family support and supported living, have been explored and found inadequate to prevent placement in a **[**mental retardation**] developmental disability** facility.

2. The regional center shall forward its comprehensive evaluation containing the determination under subsection 1 of this section and such other records as are necessary to enable the **[**mental retardation**] developmental disability** facility to determine whether to accept or reject the referral.

3. The head of a private **[**mental retardation**] developmental disability** facility may, and the head of a department **[**mental retardation**] developmental disability** facility shall, admit the person if, as a result of reviewing the evaluation, the head of the **[**mental retardation**] developmental disability** facility determines that the client is appropriate for admission as a resident and suitable accommodations are available. If the head of a department **[**mental retardation**] developmental disability** facility rejects the referral, the regional center may appeal the rejection to the division director. After consulting with the head of the referring regional center and the head of the department **[**mental retardation**] developmental disability** facility, the division director shall determine the appropriate disposition of the client.

4. The person to be admitted, if competent, his parent or legal custodian, if he is a minor, or his guardian, as authorized by a court, shall consent to the admission unless otherwise ordered by a court.

5. The head of a **[**mental retardation**] developmental disability** facility shall have an individualized habilitation plan for each resident within thirty days of the resident's admission. Such plan shall include a statement regarding the resident's anticipated length of stay in the facility and the feasibility of least restrictive alternatives.

6. If procedures are initiated under chapter 475 for the appointment of a guardian for a resident of a department **[**mental retardation**] developmental disability** facility, the referral procedure under this section shall not apply.

633.125. DISCHARGE FROM FACILITY, WHEN — MAY BE DENIED, PROCEDURE THEREAFTER — REFERRAL TO REGIONAL CENTER FOR PLACEMENT, WHEN. — 1. A resident admitted to a **[**mental retardation**] developmental disability** facility pursuant to section 633.120 shall be discharged immediately when the person who applied for his admission requests the release orally, in writing or otherwise from the head of the **[**mental retardation**] developmental disability** facility; except, that if the head of the **[**mental retardation**] developmental disability** facility regards the resident as presenting a likelihood of serious harm to himself or others, the head of the facility may initiate involuntary detention procedures pursuant to chapter 632, if appropriate, or any individual, including the head of the facility or the mental health coordinator may initiate guardianship proceedings and, if appropriate, obtain an emergency commitment order pursuant to chapter 475.

2. A resident shall be discharged from a department **[**mental retardation**] developmental disability** facility if it is determined in a comprehensive evaluation or periodic review that the person is not **[**mentally retarded or**] intellectually disabled or** developmentally disabled, and if the resident, parent, if a minor, or guardian consents to the discharge. If consent is not obtained, the head of the facility shall initiate appeal proceedings under section 633.135, before a resident can be discharged.

3. A resident shall either be discharged from a department **[**mental retardation**] developmental disability** facility or shall be referred to a regional center for placement in a least restrictive environment pursuant to section 630.610, if it is determined in a comprehensive evaluation or periodic review that the following criteria exist:

(1) The resident's condition is not of such a nature that for the protection or adequate care of the resident or others the resident needs department residential habilitation or other services;

(2) The **[**mental retardation**] developmental disability** facility does not offer a program which best meets the resident's needs; or

(3) The **[**mental retardation**] developmental disability** facility does not provide the least restrictive environment feasible. A resident may not be discharged without his consent or the consent of his parent, if he is a minor, or guardian unless proceedings have been completed under section 633.135.

4. After a resident's discharge pursuant to subsection 3 of this section, the resident shall be referred to an appropriate regional center for assistance in obtaining any necessary services.

633.130. EVALUATION OF RESIDENTS REQUIRED — DISCHARGE THEREAFTER. — 1. At least once every one hundred eighty days, the head of each **[**mental retardation**] developmental disability** facility shall cause the condition and status of each resident to be reviewed and evaluated for the purpose of determining whether the resident needs further residential habilitation, placement in the least restrictive environment or discharge.

2. The head of the facility shall initiate proceedings to discharge any resident whose continued residential habilitation is no longer appropriate; except, that the head of the facility may refer the resident to the appropriate regional center for placement pursuant to section 630.610.

3. A copy of the evaluation and individualized habilitation plan shall be sent to any court having jurisdiction over the resident.

633.135. REFUSAL OF CONSENT FOR PLACEMENT OR DISCHARGE, EFFECT — PROCEDURE — DEPARTMENT DIRECTOR TO MAKE FINAL DETERMINATION — APPEAL, PROCEDURE — BURDEN OF PROOF. — 1. If a resident, or his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement or to discharge from the facility, the head of the **[**mental retardation**] developmental disability** facility may petition the director of the division to determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620 or whether the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130.

2. The division director shall refer the petition to the chairman of the state advisory council who shall appoint and convene a review panel composed of three members. At least one member of the panel shall be a parent or guardian of a resident who resides in a department **[**mental retardation**] developmental disability** facility. The remaining members of the panel shall be persons who are from nongovernmental organizations or groups concerned with the prevention of **[**mental retardation**] intellectual disability or developmental disability**, evaluation, care and habilitation of **[**mentally retarded**] intellectually disabled or developmentally disabled** persons and who are familiar with services and service needs of **[**mentally retarded**] intellectually disabled or developmentally disabled** persons in facilities operated by the department. No member of the panel shall be an officer or employee of the department.

3. After prompt notice and hearing, the panel shall determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620 or whether the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130. The hearing shall be electronically recorded for purposes of obtaining a transcript. The council shall forward the tape recording, recommended findings of fact, conclusions of law and decision to the director who shall enter findings of fact, conclusions of law and the final decision. Notice of the director's decision shall be sent to the resident, or his parent if he is a minor, or his guardian, by registered mail, return receipt requested. The director shall expedite this review in all respects.

4. If the resident, or his parent if he is a minor, or his guardian disagrees with the decision of the director, he may appeal the decision, within thirty days after notice of the decision is sent, to the circuit court of the county where the resident, or his parent if he is a minor, or his guardian resides. The court shall review the record, proceedings and decision of the director not only under the provisions of chapter 536, but also as to whether or not the head of the facility sustained his burden of proof that the proposed placement is appropriate under sections 630.110, 630.115 and 630.120, or the proposed discharge is appropriate under sections 633.120, 633.125 and 633.130. The court shall expedite this review in all respects. Notwithstanding the provisions of section 536.140, a court may, for good cause shown, hear and consider additional competent and material evidence.

5. Any resident of a **[**mental retardation**] developmental disability** facility who is age eighteen or older and who does not have a legal guardian shall not be discharged unless probate division of the circuit court approval is obtained to confirm that the resident is not in need of the care, treatment or programs now being received in the **[**mental retardation**] developmental disability** facility.

6. The notice and procedure for the hearing by the panel shall be in accordance with chapter 536.

7. In all proceedings either before the panel or before the circuit court, the burden of proof shall be upon the head of the facility to demonstrate by preponderance of evidence that the proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615, and 630.120, or that the proposed discharge is appropriate under the criteria set forth in sections 633.120, 633.125 and 633.130.

8. Pending a convening of the hearing panel and the final decision of the director or the court, if the director's decision is appealed, the department shall not place or discharge the

resident from a facility except that the department may temporarily transfer such resident in the case of a medical emergency.

9. There shall be no disciplinary action against any state employee who in good faith testifies or otherwise provides information or evidence in regard to a proposed placement or discharge.

633.140. RETURN OF ABSENTEE, PROCEDURE. — 1. If any resident leaves a **[**mental retardation**] developmental disability** facility without authorization, the sheriff of the county where the resident is found shall apprehend and return him to the center if requested to do so by the head of the facility.

2. The head of the facility may request the return of an absent resident pursuant to subsection 1 of this section only when one of the following circumstances exists:

(1) The resident is a minor whose admission was applied for by his parent or legal custodian, and such parent or guardian has not requested the resident's release;

(2) The resident is a minor under the jurisdiction of the juvenile court;

(3) The resident has been declared legally incapacitated and his guardian has not requested his release; or

(4) The resident's condition is of such a nature that, for the protection of the resident or others, the head of the facility determines that the resident's return to the facility is necessary. Such determination shall be noted in the resident's records.

633.145. TRANSFER OF PATIENT BETWEEN FACILITIES BY DEPARTMENT — NOTICE, CONSENT. — 1. The department may transfer a resident from one department **[**mental retardation**] developmental disability** facility to another if the division director determines that such transfer is desirable to provide the resident improved habilitation or other services, to better insure his safety and welfare, or to locate him in closer proximity to his family and friends.

2. Transfers may only be made to a private **[**mental retardation**] developmental disability** facility pursuant to section 630.610.

3. Determinations by the division director pursuant to this section shall be written and noted in the resident's records. The division director shall notify the resident, his guardian or next of kin of such determination. The department shall not transfer any resident unless it receives the consent of the resident, his guardian or his parent, if the resident is a minor.

633.150. TRANSFER OF PATIENT TO MENTAL HEALTH FACILITY BY HEAD OF DEVELOPMENTAL DISABILITY FACILITY, HOW. — The head of a **[**mental retardation**] developmental disability** facility may transfer a resident to a mental health facility only under the provisions of chapter 632. The director shall order that such resident be returned to the **[**mental retardation**] developmental disability** facility when the resident is no longer in need of psychiatric care and treatment.

633.155. ADMISSION FOR RESPITE CARE FOR LIMITED TIME ONLY. — 1. The division may provide or obtain respite care for **[**a mentally retarded**] an intellectually disabled** or developmentally disabled person for respite care of up to twenty-one days which may be extended up to an additional twenty-one days for good cause shown. Any additional respite care beyond forty-two days within a one-year period shall be expressly approved by the director of the division.

2. Notwithstanding the provisions of section 633.120 and section 475.120, a regional center may admit **[**a mentally retarded**] an intellectually disabled** or developmentally disabled person who has been declared legally incapacitated for respite care without a court order authorizing the guardian of such person to obtain such care of up to twenty-one days for good cause shown.

633.160. EMERGENCY ADMISSION MAY BE MADE, DURATION, CONDITIONS. — If a person presents himself, or is presented, to a regional center or department **[**mental retardation**]** **developmental disability** facility and is determined to be **[**mentally retarded or**]** **intellectually disabled or** developmentally disabled and, as a result, presents an imminent likelihood of serious harm to himself or others as defined in chapter 632, the regional center or **[**mental retardation**]** **developmental disability** facility may accept the person for detention for evaluation and treatment for a period not to exceed ninety-six hours under the same procedures contained in chapter 632. The head of the regional center or **[**mental retardation**]** **developmental disability** facility may initiate guardianship proceedings to have the person detained beyond the ninety-six hours under chapter 475, or may refer the person to a mental health facility, if the person is mentally ill, for further detention under the procedures in chapter 632.

633.180. CASH STIPEND, ELIGIBILITY, AMOUNT, PAYMENT, USE — APPLICATION. — 1. A family with an annual income of sixty thousand dollars or less which has a child with a developmental disability residing in the family home shall be eligible to apply for a cash stipend from the division of **[**mental retardation and**]** developmental disabilities in an amount to be determined by the regional advisory council. Such cash stipend amount shall not exceed the maximum monthly federal Supplemental Security Income payment for an individual with a developmental disability who resides alone. Such stipend shall be paid on a monthly basis and shall be considered a benefit and not income to the family. The stipend shall be used to purchase goods and services for the benefit of the family member with a developmental disability. Such goods and services may include, but are not limited to:

(1) Respite care;
(2) Personal and attendant care;
(3) Architectural and vehicular modifications;
(4) Health- and mental health-related costs not otherwise covered;
(5) Equipment and supplies;
(6) Specialized nutrition and clothing;
(7) Homemaker services;
(8) Transportation;
(9) Integrated community activities;
(10) Training and technical assistance; and
(11) Individual, family and group counseling.

2. Application for such stipend shall be made to the appropriate regional center. The regional center shall determine the eligibility of the individual to receive services from the division and the division shall forward the application to the regional advisory council to determine the amount of the stipend which may be approved by the council.

3. The family support program shall be funded by moneys appropriated by the general assembly; however, the family support program shall not supplant other programs funded through the division of **[**mental retardation and**]** developmental disabilities.

633.185. FAMILY SUPPORT LOAN PROGRAM — INTEREST RATE — AMOUNT — APPLICATION — FAMILY SUPPORT LOAN PROGRAM FUND CREATED. — 1. The division of **[**mental retardation and**]** developmental disabilities, subject to appropriation by the general assembly, is authorized to implement and administer, as part of the family support program, a family support loan program, which shall provide a family with an annual income of sixty thousand dollars or less which has an individual with a developmental disability residing in the home, with low-interest, short-term loans to purchase goods and services for the family member with a developmental disability.

2. Interest rates on loans made pursuant to the provisions of this section shall be no more than one percent above the prime interest rate as determined by the federal reserve system on the

date the loan is approved. Loans may be for a maximum period of sixty months and the outstanding loan amount to any family may be no more than ten thousand dollars.

3. Applications for loans shall be made to the appropriate regional center. The regional center shall determine the eligibility of the individual to receive services from the division and the division shall forward the application to the regional advisory council to determine the amount of the loan which may be approved by the council.

4. There is hereby created in the state treasury for use by the department of mental health a fund to be known as the "Family Support Loan Program Fund". Moneys deposited in the fund shall be appropriated to the director of the department of mental health to be used for loans pursuant to this section. The fund shall consist of moneys appropriated by the general assembly for starting the fund and money otherwise deposited according to law. Any unexpended balance in the fund at the end of any biennium, not to exceed twice the annual loans made pursuant to this act in the previous fiscal year, is exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the ordinary revenue fund.

633.190. PROMULGATION OF RULES. — 1. The division of **[**mental retardation and**]** developmental disabilities, in cooperation with the Missouri planning council for developmental disabilities, shall adopt policies and procedures and, when necessary, shall promulgate rules and regulations regarding:

(1) Program guidelines and specifications;

(2) Additional duties of the regional advisory councils;

(3) Annual evaluation of services provided by each regional center, including an assessment of consumer satisfaction;

(4) Coordination of the family support program and the use of its funds throughout the state and within each region, with other publicly funded programs, including Medicaid;

(5) Methodology for allocating resources to families with the funds available;

(6) Resolution of grievances filed by families pertaining to actions of the family support program;

(7) Methodology for outreach and education.

2. 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.

633.210. OFFICE OF AUTISM SERVICES ESTABLISHED, DUTIES — AUTISM SPECTRUM DISORDER DEFINED. — 1. There is hereby established in the department of mental health within the division of **[**mental retardation and**]** developmental disabilities, an "Office of Autism Services". The office of autism services, under the supervision of the director of the division of **[**mental retardation and**]** developmental disabilities, shall provide leadership in program development for children and adults with autism spectrum disorders, to include establishment of program standards and coordination of program capacity.

2. For purposes of this section, the term "autism spectrum disorder" shall be defined as in standard diagnostic criteria for pervasive developmental disorder, to include: autistic disorder; Asperger's syndrome; pervasive developmental disorder-not otherwise specified; childhood disintegrative disorder; and Rett's syndrome.

633.300. GROUP HOMES AND FACILITIES SUBJECT TO FEDERAL AND STATE LAW — WORKERS SUBJECT TO TRAINING REQUIREMENTS — RULEMAKING AUTHORITY. — 1. All group homes and **[**mental retardation**] developmental disability** facilities as defined in section 633.005 shall be subject to all applicable federal and state laws, regulations, and monitoring, including but not limited to sections 630.705 to 630.805.

2. All mental health workers, as defined in subdivision (8) of section 210.900, shall be subject to the same training requirements established for state mental health workers with

comparable positions in public group homes and mental health facilities. Such required training shall be paid for by the employer.

3. Group homes and **[**mental retardation**] developmental disability** facilities shall be subject to the same medical errors reporting requirements of other mental health facilities and group homes.

4. The department shall promulgate rules or amend existing rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2008, shall be invalid and void.

633.303. TERMINATION OF WORKERS ON DISQUALIFICATION REGISTRY. — Any employee, including supervisory personnel, of a group home or **[**mental retardation**] developmental disability** facility who has been placed on the disqualification registry pursuant to section 630.170 shall be terminated. Such requirements shall be specified in contracts between the department and providers pursuant to this section.

633.309. NO TRANSFER TO HOMES OR FACILITIES WITH NONCOMPLIANCE NOTICES. — The department of mental health shall not transfer any person to any group home or **[**mental retardation**] developmental disability** facility that has received a notice of noncompliance, until there is an approved plan of correction pursuant to sections 630.745 and 630.750.

Approved July 12, 2011

HB 661 [SCS HB 661]

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 debt adjusters

AN ACT to repeal sections 425.010, 425.020, 425.025, 425.027, and 425.040, RSMo, and to enact in lieu thereof six new sections relating to debt adjusters, with an existing penalty provision.

SECTION

A. Enacting clause.
425.010. Definitions.
425.020. Debt adjusting — penalty.
425.025. Debt management plan or debt settlement plan may be administered free of charge.
425.027. Surety bond for debt adjusters required, amount.
425.040. Who not to be considered debt adjusters.
425.043. Required disclosures — misrepresentations and payment prohibited — funds held, requirements.

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

SECTION A. ENACTING CLAUSE. — Sections 425.010, 425.020, 425.025, 425.027, and 425.040, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 425.010, 425.020, 425.025, 425.027, 425.040, and 425.043, to read as follows:

425.010. DEFINITIONS. — As used in **[**this chapter**] sections 425.010 to 425.043**, the following terms mean:

(1) "Debt adjuster", a person who **[**acts**] provides** 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 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**] provide debt relief services for a consideration**;

(2) "Debt management plan" or "DMP", a written agreement or contract between a debt adjuster and a debtor whereby the debt adjuster **[**agrees to**], in return for payment by the debtor of no more than reasonable consideration, will** provide **[**its**] debt relief** services **[**as such to the debtor in return for payment by the debtor of no more than reasonable consideration**] that contemplate that creditors will reduce finance charges or fees for late payment, default, or delinquency**;

(3) "Debtor", an individual or individuals jointly and severally or jointly or severally indebted;

(4) **"Debt relief services", any program or service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a debtor and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor or debt collector;**

(5) "Debt settlement plan" or "DSP", a written agreement or contract between a debt adjuster and a debtor whereby the debt adjuster, in return for payment by the debtor of consideration, will provide debt relief services that contemplate that creditors will settle debts for less than the principal amount of the debt;

(6) "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 **or debt settlement plan** is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

425.025. DEBT MANAGEMENT PLAN OR DEBT SETTLEMENT PLAN MAY BE ADMINISTERED FREE OF CHARGE. — Nothing in **[**this chapter**] sections 425.010 to 425.043** shall be construed to prevent any individual or organization from administering a debt management plan **or debt settlement plan** free of charge.

425.027. SURETY 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.**] Each initial license application shall be accompanied by a surety bond in the principal sum in accordance with the following categories:**

(1) Fifty thousand dollars if the applicant declares that the operation will handle no consumer monies; or

(2) One hundred thousand dollars otherwise.

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 debt settlement plan** or the debt adjuster's failure to properly

administer debtor funds collected or disbursed under the debt management plan **or debt settlement 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.

425.040. WHO NOT TO BE CONSIDERED DEBT ADJUSTERS. — The following persons shall not be considered debt adjusters for the purposes of **[**this chapter**] sections 425.010 to 425.043**:

(1) Any attorney at law of this state;

(2) Any person who is a regular, full-time employee of a debtor, and who acts as an adjuster of his employer's debts;

(3) Any person acting pursuant to any order or judgment of court, or pursuant to authority conferred by any law of this state or of the United States;

(4) Any person who is a creditor of the debtor, or an agent of one or more creditors of the debtor, and whose services in adjusting the debtor's debts are rendered without cost to the debtor; and

(5) Any person who, at the request of a debtor, arranges for or makes a loan to the debtor, and who, at the authorization of the debtor, acts as an adjuster of the debtor's debts in the disbursement of the proceeds of the loan, without compensation for the services rendered **[**in adjusting the debts**] in providing debt relief services**.

425.043. REQUIRED DISCLOSURES — MISREPRESENTATIONS AND PAYMENT PROHIBITED — FUNDS HELD, REQUIREMENTS. — 1. Before a debtor consents to pay for goods or services offered, debt adjusters shall disclose truthfully, in a clear and conspicuous manner, the following material information:

(1) The amount of time necessary to achieve the represented results, and the extent that the debt relief service may include a settlement offer to any of the debtor's creditors or debt collectors, the time by which the debt adjuster will make a bona fide settlement offer to each of them;

(2) To the extent that the debt relief service may include a settlement offer to any of the debtor's creditors or debt collectors, the amount of money or the percentage of each outstanding debt that the debtor shall accumulate before the debt adjuster will make a bona fide settlement offer to each of them;

(3) To the extent that any aspect of the debt relief service relies upon or results in the debtor's failure to make timely payments to creditors or debt collectors, that the use of the debt relief service will likely adversely affect the debtor's creditworthiness, may result in the debtor being subject to collection actions or sued by creditors or debt collectors, and may increase the amount of money the debtor owes due to the accrual of fees and interest; and

(4) To the extent that the debt adjuster requests or requires the debtor to place funds in an account at an insured financial institution, that the debtor owns the funds held in the account, the debtor may withdraw from the debt relief service at any time without penalty, and, if the debtor withdraws, the debtor shall receive all funds in the account, other than funds earned by the debt adjuster, within seven business days of the debtor's request.

2. A debt adjuster shall not misrepresent, directly or by implication, any material aspect of any debt relief service, including, but not limited to, the amount of money or the percentage of the debt amount that a debtor may save by using such service; the amount of time necessary to achieve the represented results; the amount of money or the percentage of each outstanding debt that the debtor shall accumulate before the debt adjuster will initiate attempts with the debtor's creditors or debt collectors or make a bona fide offer to negotiate, settle, or modify the terms of the debtor's debt; the effect of the service on the debtor's creditworthiness; the effect of the service on collection efforts of the

debtor's creditors or debt collectors; the percentage or number of debtors who attain the represented results; and whether a debt relief service is offered or provided by a nonprofit entity.

3. A debt adjuster shall not receive payment of any fee or consideration for any debt relief service until and unless:

(1) The debt adjuster has renegotiated, settled, reduced, or otherwise altered the terms of at least one debt under a debt management plan or debt settlement plan;

(2) The debtor has made at least one payment under such debt management plan or debt settlement plan; and

(3) The fee or consideration for settling each individual debt enrolled in a debt settlement plan shall either:

(a) Bear the same proportional relationship to the total fee for settling the entire debt balance as the individual debt amount bears to the entire debt amount. The individual debt amount and the entire debt amount are amounts owed at the time the debt was enrolled on the debt relief service; or

(b) Be a percentage of the amount saved as a result of the settlement. The percentage charged shall not change from one individual debt to another. The amount saved is the difference between the amount owed at the time the debt was enrolled in the debt relief service and the amount actually paid to satisfy the debt.

4. Nothing in this section prohibits requesting or requiring the debtor to place funds in an account to be used for the debt adjuster's fees for payments to creditors or debt collectors in connection with the renegotiation, settlement, reduction, or other alteration of the terms of payment or other terms of debt, provided that:

(1) The funds are held in an account at an insured financial institution;

(2) The debtor owns the funds held in the account and is paid accrued interest on the account, if any;

(3) If the debt adjuster does not administer the account, the entity administering the account is not owned or controlled by, or in any way affiliated with, the debt adjuster;

(4) The entity administering the account does not give or accept any money or other compensation in exchange for referrals of business by the debt adjuster; and

(5) The debtor may withdraw from the debt relief service at any time without penalty, and shall receive all funds in the account, other than funds earned by the debt adjuster in compliance with subdivision (3) of subsection 3 of this section, within seven business days of the debtor's request.

Approved July 8, 2011

HB 664 [SS SCS HCS HB 664]

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 fire fighter benefits for an infectious disease incurred in the line of duty and the Firemen's Retirement System of St. Louis

AN ACT to repeal sections 87.005, 87.006, 87.205, and 87.207, RSMo, and to enact in lieu thereof five new sections relating to firemen's retirement.

SECTION

A. Enacting clause.
87.005. Firemen, certain diseases presumed incurred in line of duty — conditions — infectious disease defined.

87.006. Firemen, certain diseases presumed incurred in line of duty — persons covered — disability from cancer, presumption suffered in line of duty, when — infectious disease defined.
87.127. Qualified government plan, retirement plan intended to be.
87.205. Accidental disability retirement allowance.
87.207. Cost-of-living increase, how determined.

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

SECTION A. ENACTING CLAUSE. — Sections 87.005, 87.006, 87.205, and 87.207, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 87.005, 87.006, 87.127, 87.205, and 87.207, to read as follows:

87.005. FIREMEN, CERTAIN DISEASES PRESUMED INCURRED IN LINE OF DUTY — CONDITIONS — INFECTIOUS DISEASE DEFINED. — 1. Notwithstanding the provisions of any law to the contrary, after five years' service, any condition of impairment of health caused by any **infectious disease,** disease of the lungs or respiratory tract, hypertension, or disease of the heart resulting in total or partial disability or death to a uniformed member of a paid fire department, who successfully passed a physical examination within five years prior to the time a claim is made for such disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in line of duty, unless the contrary be shown by competent evidence. **In order to receive the presumption that an infectious disease was contracted in the line of duty, the member shall submit to an annual physical examination, at which a blood test is administered.**

2. This section shall apply only to the provisions of chapter 87, RSMo 1959.

3. As used in this section, the term "infectious disease" means the human immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D, diphtheria, meningococcal meningitis, methicillin-resistant staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe acute respiratory syndrome.

87.006. FIREMEN, CERTAIN DISEASES PRESUMED INCURRED IN LINE OF DUTY — PERSONS COVERED — DISABILITY FROM CANCER, PRESUMPTION SUFFERED IN LINE OF DUTY, WHEN — INFECTIOUS DISEASE DEFINED. — 1. Notwithstanding the provisions of any law to the contrary, and only for the purpose of computing retirement benefits provided by an established retirement plan, after five years' service, any condition of impairment of health caused by any **infectious disease,** disease of the lungs or respiratory tract, hypotension, hypertension, or disease of the heart resulting in total or partial disability or death to a uniformed member of a paid fire department, who successfully passed a physical examination within five years prior to the time a claim is made for such disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the line of duty, unless the contrary be shown by competent evidence. **In order to receive the presumption that an infectious disease was contracted in the line of duty, the member shall submit to an annual physical examination, at which a blood test is administered.**

2. Any condition of cancer affecting the skin or the central nervous, lymphatic, digestive, hematological, urinary, skeletal, oral, breast, testicular, genitourinary, liver or prostate systems, as well as any condition of cancer which may result from exposure to heat or radiation or to a known or suspected carcinogen as determined by the International Agency for Research on Cancer, which results in the total or partial disability or death to a uniformed member of a paid fire department who successfully passed a physical examination within five years prior to the time a claim is made for disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in the line of duty unless the contrary be shown by competent evidence and it can be proven to a reasonable degree of medical certainty that the condition did not result nor was contributed to by the voluntary use of tobacco.

3. This section shall apply to paid members of all fire departments of all counties, cities, towns, fire districts, and other governmental units.

4. As used in this section, the term "infectious disease" means the human immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D, diphtheria, meningococcal meningitis, methicillin-resistant staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe acute respiratory syndrome.

87.127. QUALIFIED GOVERNMENT PLAN, RETIREMENT PLAN INTENDED TO BE. — A retirement plan under sections 87.120 to 87.370 is intended to be a qualified governmental plan under the provisions of applicable federal law. The benefits and conditions of the plan shall be interpreted and the system shall be operated to ensure that the system meets the federal qualification requirements.

87.205. ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE. — 1. Upon retirement for accidental disability **before August 28, 2011**, a member shall receive seventy-five percent of the pay then provided by law for the highest step in the range of salary for the title or rank held by such member at the time of such retirement unless the member is permanently and totally incapacitated from performing any work, occupation or vocation of any kind whatsoever and is continuously confined to the member's home except for visits to obtain medical treatment, in which event the member may receive, in the discretion of the board of trustees, a retirement allowance in an amount not exceeding the member's rate of compensation as a firefighter in effect as of the date the allowance begins.

2. Anyone who has retired pursuant to the provisions of section 87.170 and has been reinstated pursuant to subsection 2 of section 87.130 who subsequently becomes disabled, as provided in section 87.200, shall receive a total benefit which is the higher of either the disability pension or the service pension.

3. Upon retirement for accidental disability on or after August 28, 2011, based on conditions of the heart, lungs, or cancer or based on permanent and total disability which will prevent the member from obtaining employment elsewhere, as determined by the board of trustees based on medical evidence presented by the retirement system's physicians, a member shall receive, regardless of his or her number of years of creditable service, seventy-five percent of the earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement.

4. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, a member shall receive a base pension equal to twenty-five percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement.

5. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, the member may elect to receive an education allowance in an amount not to exceed the tuition for a state resident at the University of Missouri-St. Louis. The accidentally disabled member shall enroll in a college, university, community college, or vocational or technical school at the first opportunity after the accidentally disabled member was retired and shall receive such educational allowance in the form of reimbursement upon proof of payment to such institution. The education allowance described in this subsection shall cease when the accidentally disabled member ceases to be a full-time student, fails to provide proof of achievement of a grade point average of two on a four-point scale or the equivalent on another scale for each academic term, or if the accidentally disabled member is restored to active service as a firefighter,

but in no event shall such education allowance be available for more than five years after the member is retired under section 87.200.

6. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, in addition to the base pension provided for in subsection 4 of this section and the education allowance provided for in subsection 5 of this section, members with twenty-five years or less of creditable service shall receive an additional accidental retirement pension equal to two and three-fourths percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of retirement for each year of creditable service equal to or greater than ten years but not more than twenty-five years.

7. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, in addition to the base pension provided for in subsection 4 of this section and the additional accidental retirement pension provided for in subsection 6 of this section, for members with twenty-five years or less of creditable service, then during such time that the disabled member is a full-time student in a college, university, community college, or vocational or technical school and is receiving the educational allowance provided for in subsection 5 of this section, such member shall also receive a supplemental disability retirement pension in the amount necessary so that his or her total accidental disability retirement pension, excluding the education allowance, shall be equal to one hundred percent of the earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement. In no event shall such supplemental accidental disability pension be paid for a period more than five years after the member is retired under section 87.200.

8. Except as provided in subsection 3 of this section, upon retirement for accidental disability on or after August 28, 2011, in addition to the base pension provided for in subsection 4 of this section and the education allowance provided for in subsection 5 of this section, for members with more than twenty-five years of creditable service, such member shall also receive an additional pension equal to fifty percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement.

9. Notwithstanding any other provisions in this section, upon retirement for accidental disability, other than as provided in subsection 3 of this section, on or after August 28, 2011, a member with more than twenty years of creditable service but not more than twenty-five years of creditable service may waive the right to receive the education allowance provided for in subsection 5 of this section, the right to additional pension retirement allowance provided for in subsection 6 of this section, and the right to receive the supplemental disability retirement pension provided for in subsection 7 of this section and may elect to receive instead in addition to the accidental disability retirement base pension as provided for in subsection 4 of this section an additional pension from the date of such member's retirement equal to forty percent of the member's earnable compensation then provided for the step in the range of salary for the title or rank held by such member at the time of such retirement. Any such election shall be made prior to such member's receipt of his or her first accidental disability pension payment.

87.207. COST-OF-LIVING INCREASE, HOW DETERMINED. — The following allowances due under the provisions of sections 87.120 to 87.371 of any member who retired from service shall be increased annually, as approved by the board of trustees beginning with the first increase in the October following his or her retirement and subsequent increases in each October thereafter, at the rates designated:

(1) With a retirement service allowance or ordinary disability allowance:

(a) One and one-half percent per year, compounded each year, up to age sixty for those retiring with twenty to twenty-four years of service,

(b) Two and one-fourth percent per year, compounded each year, up to age sixty for those retiring with twenty-five to twenty-nine years of service,

(c) Three percent per year, compounded each year, up to age sixty for those retiring with thirty or more years of service,

(d) After age sixty, five percent per year for five years;

(2) With an accidental disability allowance, three percent per year, compounded each year, up to age sixty, then five percent per year for five years. **Provided, however, for accidental disability on or after August 28, 2011, for reasons other than provided in subsection 3 of section 87.205, unless a member has more than twenty-five years of creditable service, the accidental disability allowance shall only increase at a rate of one percent per year, compounded each year, up to age sixty, then five percent per year for five years. For accidental disability on or after August 28, 2011, for reasons other than provided in subsection 3 of section 87.205, if a member has more than twenty-five years of creditable service, the accidental disability allowance shall only increase at a rate of two and one-fourth percent per year, compounded each year, up to age sixty, then five percent per year for five years.**

Approved July 7, 2011

HB 667 [HB 667]

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 two prostate cancer pilot programs to fund screening and treatment services and to provide education to men residing in the state

AN ACT to amend chapter 191, RSMo, by adding thereto one new section relating to the prostate cancer pilot program.

SECTION

A. Enacting clause.
191.950. Prostate cancer pilot programs — definitions — eligibility — services provided — grants — rulemaking authority — sunset provision.

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

SECTION A. ENACTING CLAUSE. — Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.950, to read as follows:

191.950. PROSTATE CANCER PILOT PROGRAMS — DEFINITIONS — ELIGIBILITY — SERVICES PROVIDED — GRANTS — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. As used in this section, the following terms mean:

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

(2) "Economically challenged men", men who have a gross income up to one-hundred and fifty percent of the federal poverty level;

(3) "Program", the prostate cancer pilot program established in this section;

(4) "Rural area", a rural area which is in either any county of the third classification without a township form of government and with more than twenty thousand but fewer than twenty thousand one hundred inhabitants, any county of the second classification with more than nineteen thousand seven hundred but fewer than nineteen thousand eight hundred inhabitants, or any county of the third classification with a township form of

government and with more than thirty-three thousand one hundred but fewer than thirty-three thousand two hundred inhabitants;

(5) "Uninsured men", men for whom services provided by the program are not covered by private insurance, MO HealthNet or Medicare;

(6) "Urban area", an urban area which is located in a city not within a county.

2. Subject to securing a cooperative agreement with a nonprofit entity for funding of the program, there is hereby established within the department of health and senior services two "Prostate Cancer Pilot Programs" to fund prostate cancer screening and treatment services and to provide education to men residing in this state. One prostate cancer pilot program shall be located in an urban area and one prostate cancer pilot program shall be located in a rural area. The department may directly contract with the Missouri Foundation for Health, or a successor entity, in the delivery of the pilot program. For purposes of this section, the contracting process of the department with these entities need not be governed by the provisions of chapter 34.

3. The program shall be open to:

(1) Uninsured men or economically challenged men who are at least fifty years old; and

(2) On the advice of a physician or at the request of the individual, uninsured men or economically challenged men who are at least thirty-five years of age but less than fifty years of age and who are at high risk for prostate cancer.

4. The program shall provide:

(1) Prostate cancer screening;

(2) Referral services, including services necessary for diagnosis;

(3) Treatment services for individuals who are diagnosed with prostate cancer after being screened; and

(4) Outreach and education activities to ensure awareness and utilization of program services by uninsured men and economically challenged men.

5. Upon appropriation, the department shall distribute grants to administer the program to:

(1) Local health departments; and

(2) Federally qualified health centers.

6. Three years from the date on which the grants were first administered under this section, the department shall report to the governor and general assembly:

(1) The number of individuals screened and treated under the program, including racial and ethnic data on the individuals who were screened and treated; and

(2) To the extent possible, any cost savings achieved by the program as a result of early detection of prostate cancer.

7. The department shall promulgate rules to establish guidelines regarding eligibility for the program and to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2011, shall be invalid and void.

8. Under section 23.253 of the Missouri sunset act:

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

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

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

Approved June 17, 2011

HB 675 [HB 675]

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 every elected or appointed coroner, deputy coroner, and assistant to the coroner to complete the annually required educational training within six months of his or her election or appointment

AN ACT to repeal section 58.095, RSMo, and to enact in lieu thereof one new section relating to county coroner training.

SECTION

A. Enacting clause.

58.095. Compensation of county coroner — training program, attendance required, when, expenses, compensation (noncharter counties).

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

SECTION A. ENACTING CLAUSE. — Section 58.095, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 58.095, to read as follows:

58.095. COMPENSATION OF COUNTY CORONER — TRAINING PROGRAM, ATTENDANCE REQUIRED, WHEN, EXPENSES, COMPENSATION (NONCHARTER COUNTIES). — 1. The county coroner in any county, other than in a first classification chartered county, shall receive an annual salary computed on a basis as set forth in the following schedule. The provisions of this section shall not permit or require a reduction in the amount of compensation being paid for the office of coroner on January 1, 1997:

Assessed Valuation	Salary
$ 18,000,000 to 40,999,999	$8,000
41,000,000 to 53,999,999	8,500
54,000,000 to 65,999,999	9,000
66,000,000 to 85,999,999	9,500
86,000,000 to 99,999,999	10,000
100,000,000 to 130,999,999	11,000
131,000,000 to 159,999,999	12,000
160,000,000 to 189,999,999	13,000
190,000,000 to 249,999,999	14,000
250,000,000 to 299,999,999	15,000
300,000,000 or more	16,000

2. One thousand dollars of the salary authorized in this section shall be payable to the coroner only if the coroner has completed at least twenty hours of classroom instruction each calendar year relating to the operations of the coroner's office when approved by a professional association of the county coroners of Missouri unless exempted from the training by the

professional association. The professional association approving the program shall provide a certificate of completion to each coroner who completes the training program and shall send a list of certified coroners to the treasurer of each county. Expenses incurred for attending the training session may be reimbursed to the county coroner in the same manner as other expenses as may be appropriated for that purpose. **All elected or appointed coroners, deputy coroners, and assistants to the coroner shall complete the annual training described in this subsection within six months of election or appointment.**

3. The county coroner in any county, other than a first classification charter county, shall not, except upon two-thirds vote of all the members of the salary commission, receive an annual compensation in an amount less than the total compensation being received for the office of county coroner in the particular county for services rendered or performed on the date the salary commission votes.

4. For the term beginning in 1997, the compensation of the coroner, in counties in which the salary commission has not voted to pay one hundred percent of the maximum allowable salary, shall be a percentage of the maximum allowable salary established by this section. The percentage applied shall be the same percentage of the maximum allowable salary received or allowed, whichever is greater, to the presiding commissioner or sheriff, whichever is greater, of that county for the year beginning January 1, 1997. In those counties in which the salary commission has voted to pay one hundred percent of the maximum allowable salary, the compensation of the coroner shall be based on the maximum allowable salary in effect at each time a coroner's term of office commences following the vote to pay one hundred percent of the maximum allowable compensation. Subsequent compensation shall be determined as provided in section 50.333.

5. Effective January 1, 1997, the county coroner in any county, other than a county of the first classification with a charter form of government, may, upon the approval of the county commission, receive additional compensation for any month during which investigations or other services are performed for three or more decedents in the same incident during such month. The additional compensation shall be an amount that when added to the regular compensation the sum shall equal the monthly compensation of the county sheriff.

Approved July 5, 2011

HB 737 [SCS HB 737]

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 renewable energy in enhanced enterprise zones and the taxation of hydroelectric power generating equipment

AN ACT to repeal sections 135.950, 135.963, and 137.010, RSMo, section 135.953 as enacted by conference committee substitute for senate committee substitute for house committee substitute for house bill no. 1965, ninety-fifth general assembly, second regular session, and section 135.953 as enacted by house committee substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, second regular session, and to enact in lieu thereof four new sections relating to renewable energy.

SECTION

A. Enacting clause.
135.950. Definitions.
135.953. Enhanced enterprise zone criteria — zone may be established in certain areas — additional criteria.
135.953. Enhanced enterprise zone criteria — zone may be established in certain areas — additional criteria.

135.963. Improvements exempt, when — authorizing resolution, contents — public hearing required, notice — certain property exempt from ad valorem taxes, duration — time period — property affected — assessor's duties.
137.010. Definitions.

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

SECTION A. ENACTING CLAUSE. — Sections 135.950, 135.963, and 137.010, RSMo, section 135.953 as enacted by conference committee substitute for senate committee substitute for house committee substitute for house bill no. 1965, ninety-fifth general assembly, second regular session, and section 135.953 as enacted by house committee substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, second regular session, are repealed and four new sections enacted in lieu thereof, to be known as sections 135.950, 135.953, 135.963, and 137.010, to read as follows:

135.950. DEFINITIONS. — The following terms, whenever used in sections 135.950 to 135.970 mean:

(1) "Average wage", the new payroll divided by the number of new jobs;

(2) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use. **The term "blighted area" shall also include any area which produces or generates or has the potential to produce or generate electrical energy from a renewable energy resource, and which, by reason of obsolescence, decadence, blight, dilapidation, deteriorating or inadequate site improvements, substandard conditions, the predominance or defective or inadequate street layout, unsanitary or unsafe conditions, improper subdivision or obsolete platting, or the existence of conditions which endanger the life or property by fire or other means, or any combination of such factors, is underutilized, unutilized, or diminishes the economic usefulness of the land, improvements, or lock and dam site within such area for the production, generation, conversion, and conveyance of electrical energy from a renewable energy resource**;

(3) "Board", an enhanced enterprise zone board established pursuant to section 135.957;

(4) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the new business facility is first put into use by the taxpayer in the enhanced business enterprise in which the taxpayer intends to use the new business facility;

(5) "County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any taxpayer that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, such taxpayer shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;

(6) "Department", the department of economic development;

(7) "Director", the director of the department of economic development;

(8) "Employee", a person employed by the enhanced business enterprise that is scheduled to work an average of at least one thousand hours per year, and such person at all times has health insurance offered to him or her, which is partially paid for by the employer;

(9) "Enhanced business enterprise", an industry or one of a cluster of industries that is either:

(a) Identified by the department as critical to the state's economic security and growth; or

(b) Will have an impact on industry cluster development, as identified by the governing authority in its application for designation of an enhanced enterprise zone and approved by the department; but excluding gambling establishments (NAICS industry group 7132), retail trade (NAICS sectors 44 and 45), educational services (NAICS sector 61), religious organizations (NAICS industry group 8131), public administration (NAICS sector 92), and food and drinking places (NAICS subsector 722), however, notwithstanding provisions of this section to the contrary, headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied. Service industries may be eligible only if a majority of its annual revenues will be derived from out of the state;

(10) "Existing business facility", any facility in this state which was employed by the taxpayer claiming the credit in the operation of an enhanced business enterprise immediately prior to an expansion, acquisition, addition, or replacement;

(11) "Facility", any building used as an enhanced business enterprise located within an enhanced enterprise zone, including the land on which the facility is located and all machinery, equipment, and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(12) "Facility base employment", the greater of the number of employees located at the facility on the date of the notice of intent, or for the twelve-month period prior to the date of the notice of intent, the average number of employees located at the facility, or in the event the project facility has not been in operation for a full twelve-month period, the average number of employees for the number of months the facility has been in operation prior to the date of the notice of intent;

(13) "Facility base payroll", the total amount of taxable wages paid by the enhanced business enterprise to employees of the enhanced business enterprise located at the facility in the twelve months prior to the notice of intent, not including the payroll of owners of the enhanced business enterprise unless the enhanced business enterprise is participating in an employee stock ownership plan. For the purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on the consumer price index or other comparable measure, as determined by the department;

(14) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

(15) "Megaproject", any manufacturing or assembling facility, approved by the department for construction and operation within an enhanced enterprise zone, which satisfies the following:

(a) The new capital investment is projected to exceed three hundred million dollars over a period of eight years from the date of approval by the department;

(b) The number of new jobs is projected to exceed one thousand over a period of eight years beginning on the date of approval by the department;

(c) The average wage of new jobs to be created shall exceed the county average wage;

(d) The taxpayer shall offer health insurance to all new jobs and pay at least eighty percent of such insurance premiums; and

(e) An acceptable plan of repayment, to the state, of the tax credits provided for the megaproject has been provided by the taxpayer;

(16) "NAICS", the 1997 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group or industry identified in this section shall include its corresponding classification in subsequent federal industry classification systems;

(17) "New business facility", a facility that **does not produce or generate electrical energy from a renewable energy resource and** satisfies the following requirements:

(a) Such facility is employed by the taxpayer in the operation of an enhanced business enterprise. Such facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of an enhanced business enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of an enhanced business enterprise, the portion employed by the taxpayer in the operation of an enhanced business enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), and (d) of this subdivision are satisfied;

(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31, 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer, or the commencement of the term of the lease to the taxpayer occurs after December 31, 2004;

(c) If such facility was acquired by the taxpayer from another taxpayer and such facility was employed immediately prior to the acquisition by another taxpayer in the operation of an enhanced business enterprise, the operation of the same or a substantially similar enhanced business enterprise is not continued by the taxpayer at such facility; and

(d) Such facility is not a replacement business facility, as defined in subdivision (25) of this section;

(18) "New business facility employee", an employee of the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section 135.967 is claimed, except that truck drivers and rail and barge vehicle operators and other operators of rolling stock for hire shall not constitute new business facility employees;

(19) "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year for which the credit allowed by 135.967 is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels, and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

(20) "New job", the number of employees located at the facility that exceeds the facility base employment less any decrease in the number of the employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job;

(21) "Notice of intent", a form developed by the department which is completed by the enhanced business enterprise and submitted to the department which states the enhanced business enterprise's intent to hire new jobs and request benefits under such program;

(22) "Related facility", a facility operated by the enhanced business enterprise or a related company in this state that is directly related to the operation of the project facility;

(23) "Related facility base employment", the greater of:

(a) The number of employees located at all related facilities on the date of the notice of intent; or

(b) For the twelve-month period prior to the date of the notice of intent, the average number of employees located at all related facilities of the enhanced business enterprise or a related company located in this state;

(24) "Related taxpayer":

(a) A corporation, partnership, trust, or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust, or association in control of the taxpayer; or

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. "Control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

(25) **"Renewable energy generation zone", an area which has been found, by a resolution or ordinance adopted by the governing authority having jurisdiction of such area, to be a blighted area and which contains land, improvements, or a lock and dam site which is unutilized or underutilized for the production, generation, conversion, and conveyance of electrical energy from a renewable energy resource;**

(26) "Renewable energy resource", shall include:

(a) Wind;

(b) Solar thermal sources or photovoltaic cells and panels;

(c) Dedicated crops grown for energy production;

(d) Cellulosic agricultural residues;

(e) Plant residues;

(f) Methane from landfills, agricultural operations, or wastewater treatment;

(g) Thermal depolymerization or pyrolysis for converting waste material to energy;

(h) Clean and untreated wood such as pallets;

(i) Hydroelectric power, which shall include electrical energy produced or generated by hydroelectric power generating equipment, as such term is defined in section 137.010;

(j) Fuel cells using hydrogen produced by one or more of the renewable resources provided in paragraphs (a) to (i) of this subdivision; or

(k) Any other sources of energy, not including nuclear energy, that are certified as renewable by rule by the department of natural resources;

(27) "Replacement business facility", a facility otherwise described in subdivision (17) of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year for which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of an enhanced business enterprise and the taxpayer continues the operation of the same or substantially similar enhanced business enterprise at the new facility. Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subdivision (19) of this

section, in the new facility during the tax period for which the credits allowed in section 135.967 are claimed exceed one million dollars and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two;

[(26)] **(28)** "Same or substantially similar enhanced business enterprise", an enhanced business enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed, or conducted in the same or similar manner as in another enhanced business enterprise.

[135.953. ENHANCED ENTERPRISE ZONE CRITERIA — ZONE MAY BE ESTABLISHED IN CERTAIN AREAS — ADDITIONAL CRITERIA. — 1. For purposes of sections 135.950 to 135.970, an area shall meet the following criteria in order to qualify as an enhanced enterprise zone:

(1) The area shall be a blighted area, have pervasive poverty, unemployment and general distress; and

(2) At least sixty percent of the residents living in the area have incomes below ninety percent of the median income of all residents:

(a) Within the state of Missouri, according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five or other appropriate source as approved by the director; or

(b) Within the county or city not within a county in which the area is located, according to the last decennial census or other appropriate source as approved by the director; and

(3) The resident population of the area shall be at least five hundred but not more than one hundred thousand at the time of designation as an enhanced enterprise zone if the area lies within a metropolitan statistical area, as established by the United States Census Bureau, or if the area does not lie within a metropolitan statistical area, the resident population of the area at the time of designation shall be at least five hundred but not more than forty thousand inhabitants. If the population of the jurisdiction of the governing authority does not meet the minimum population requirements set forth in this subdivision, the population of the area must be at least fifty percent of the population of the jurisdiction. However, no enhanced enterprise zone shall be created which consists of the total area within the political boundaries of a county; and

(4) The level of unemployment of persons, according to the most recent data available from the United States Bureau of Census and approved by the director, within the area is equal to or exceeds the average rate of unemployment for:

(a) The state of Missouri over the previous twelve months; or

(b) The county or city not within a county over the previous twelve months.

2. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be established in an area located within a county for which public and individual assistance has been requested by the governor pursuant to Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, et seq., for an emergency proclaimed by the governor pursuant to section 44.100 due to a natural disaster of major proportions, if the area to be designated is blighted and sustained severe damage as a result of such natural disaster, as determined by the state emergency management agency. An application for designation as an enhanced enterprise zone pursuant to this subsection shall be made before the expiration of one year from the date the governor requested federal relief for the area sought to be designated.

3. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be designated in a county of declining population if it meets the requirements of subdivisions (1), (3) and either (2) or (4) of

subsection 1 of this section. For the purposes of this subsection, a "county of declining population" is one that has lost one percent or more of its population as demonstrated by comparing the most recent decennial census population to the next most recent decennial census population for the county.

4. In addition to meeting the requirements of subsection 1, 2, or 3 of this section, an area, to qualify as an enhanced enterprise zone, shall be demonstrated by the governing authority to have either:

(1) The potential to create sustainable jobs in a targeted industry; or

(2) A demonstrated impact on local industry cluster development.**]**

135.953. ENHANCED ENTERPRISE ZONE CRITERIA — ZONE MAY BE ESTABLISHED IN CERTAIN AREAS — ADDITIONAL CRITERIA. — 1. For purposes of sections 135.950 to 135.970, an area shall meet the following criteria in order to qualify as an enhanced enterprise zone:

(1) The area shall be a blighted area, have pervasive poverty, unemployment and general distress; and

(2) At least sixty percent of the residents living in the area have incomes below ninety percent of the median income of all residents:

(a) Within the state of Missouri, according to the last decennial census or other appropriate source as approved by the director; or

(b) Within the county or city not within a county in which the area is located, according to the last decennial census or other appropriate source as approved by the director; and

(3) The resident population of the area shall be at least five hundred but not more than one hundred thousand at the time of designation as an enhanced enterprise zone if the area lies within a metropolitan statistical area, as established by the United States Census Bureau, or if the area does not lie within a metropolitan statistical area, the resident population of the area at the time of designation shall be at least five hundred but not more than forty thousand inhabitants. If the population of the jurisdiction of the governing authority does not meet the minimum population requirements set forth in this subdivision, the population of the area must be at least fifty percent of the population of the jurisdiction. However, no enhanced enterprise zone shall be created which consists of the total area within the political boundaries of a county; and

(4) The level of unemployment of persons, according to the most recent data available from the United States Bureau of Census and approved by the director, within the area is equal to or exceeds the average rate of unemployment for:

(a) The state of Missouri over the previous twelve months; or

(b) The county or city not within a county over the previous twelve months.

2. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be established in an area located within a county for which public and individual assistance has been requested by the governor pursuant to Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., for an emergency proclaimed by the governor pursuant to section 44.100 due to a natural disaster of major proportions, if the area to be designated is blighted and sustained severe damage as a result of such natural disaster, as determined by the state emergency management agency. An application for designation as an enhanced enterprise zone pursuant to this subsection shall be made before the expiration of one year from the date the governor requested federal relief for the area sought to be designated.

3. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be designated in a county of declining population if it meets the requirements of subdivisions (1), (3) and either (2) or (4) of subsection 1 of this section. For the purposes of this subsection, a "county of declining population" is one that has lost one percent or more of its population as demonstrated by comparing the most recent decennial census population to the next most recent decennial census population for the county.

4. In addition to meeting the requirements of subsection 1, 2, or 3 of this section, an area, to qualify as an enhanced enterprise zone, shall be demonstrated by the governing authority to have either:

(1) The potential to create sustainable jobs in a targeted industry; or

(2) A demonstrated impact on local industry cluster development.

5. Notwithstanding the requirements of subsections 1 and 4 of this section to the contrary, a renewable energy generation zone may be designated as an enhanced enterprise zone if the renewable energy generation zone meets the criteria set forth in subdivision (25) of section 135.950.

135.963. IMPROVEMENTS EXEMPT, WHEN — AUTHORIZING RESOLUTION, CONTENTS — PUBLIC HEARING REQUIRED, NOTICE — CERTAIN PROPERTY EXEMPT FROM AD VALOREM TAXES, DURATION — TIME PERIOD — PROPERTY AFFECTED — ASSESSOR'S DUTIES. — 1. Improvements made to real property as such term is defined in section 137.010 which are made in an enhanced enterprise zone subsequent to the date such zone or expansion thereto was designated, may, upon approval of an authorizing resolution **or ordinance** by the governing authority having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more affected political subdivisions. **Improvements made to real property, as such term is defined in section 137.010, which are locally assessed and in a renewable energy generation zone designated as an enhanced enterprise zone, subsequent to the date such enhanced enterprise zone or expansion thereto was designated, may, upon approval of an authorizing resolution or ordinance by the governing authority having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more affected political subdivisions.** In addition to enhanced business enterprises, a speculative industrial or warehouse building constructed by a public entity or a private entity if the land is leased by a public entity may be subject to such exemption.

2. Such authorizing resolution shall specify the percent of the exemption to be granted, the duration of the exemption to be granted, and the political subdivisions to which such exemption is to apply and any other terms, conditions, or stipulations otherwise required. A copy of the resolution shall be provided to the director within thirty calendar days following adoption of the resolution by the governing authority.

3. No exemption shall be granted until the governing authority holds a public hearing for the purpose of obtaining the opinions and suggestions of residents of political subdivisions to be affected by the exemption from property taxes. The governing authority shall send, by certified mail, a notice of such hearing to each political subdivision in the area to be affected and shall publish notice of such hearing in a newspaper of general circulation in the area to be affected by the exemption at least twenty days prior to the hearing but not more than thirty days prior to the hearing. Such notice shall state the time, location, date, and purpose of the hearing.

4. Notwithstanding subsection 1 of this section, at least one-half of the ad valorem taxes otherwise imposed on subsequent improvements to real property located in an enhanced enterprise zone of enhanced business enterprises or speculative industrial or warehouse buildings as indicated in subsection 1 of this section shall become and remain exempt from assessment and payment of ad valorem taxes of any political subdivision of this state or municipality thereof for a period of not less than ten years following the date such improvements were assessed, provided the improved properties are used for enhanced business enterprises. The exemption for speculative buildings is subject to the approval of the governing authority for a period not to exceed two years if the building is owned by a private entity and five years if the building is owned or ground leased by a public entity. This shall not preclude the building receiving an exemption for the remaining time period established by the governing authority if it was

occupied by an enhanced business enterprise. The two- and five-year time periods indicated for speculative buildings shall not be an addition to the local abatement time period for such facility.

5. No exemption shall be granted for a period more than twenty-five years following the date on which the original enhanced enterprise zone was designated by the department.

6. The provisions of subsection 1 of this section shall not apply to improvements made to real property begun prior to August 28, 2004.

7. The abatement referred to in this section shall not relieve the assessor or other responsible official from ascertaining the amount of the equalized assessed value of all taxable property annually as required by section 99.855, 99.957, or 99.1042 and shall not have the effect of reducing the payments in lieu of taxes referred to in subdivision (2) of subsection 1 of section 99.845, subdivision (2) of subsection 3 of section 99.957, or subdivision (2) of subsection 3 of section 99.1042 unless such reduction is set forth in the plan approved by the governing body of the municipality pursuant to subdivision (1) of subsection 1 of section 99.820, section 99.942, or section 99.1027.

137.010. DEFINITIONS. — The following words, terms and phrases when used in laws governing taxation and revenue in the state of Missouri shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

(1) "Grain and other agricultural crops in an unmanufactured condition" shall mean grains and feeds including, but not limited to, soybeans, cow peas, wheat, corn, oats, barley, kafir, rye, flax, grain sorghums, cotton, and such other products as are usually stored in grain and other elevators and on farms; but excluding such grains and other agricultural crops after being processed into products of such processing, when packaged or sacked. The term "processing" shall not include hulling, cleaning, drying, grating, or polishing;

(2) **"Hydroelectric power generating equipment", very-low-head turbine generators with a nameplate generating capacity of at least four hundred kilowatts but not more than six hundred kilowatts and machinery and equipment used directly in the production, generation, conversion, storage, or conveyance of hydroelectric power to land-based devices and appurtenances used in the transmission of electrical energy;**

(3) "Intangible personal property", for the purpose of taxation, shall include all property other than real property and tangible personal property, as defined by this section;

[(3)] **(4)** "Real property" includes land itself, whether laid out in town lots or otherwise, and all growing crops, buildings, structures, improvements and fixtures of whatever kind thereon, **hydroelectric power generating equipment,** the installed poles used in the transmission or reception of electrical energy, audio signals, video signals or similar purposes, provided the owner of such installed poles is also an owner of a fee simple interest, possessor of an easement, holder of a license or franchise, or is the beneficiary of a right-of-way dedicated for public utility purposes for the underlying land; attached wires, transformers, amplifiers, substations, and other such devices and appurtenances used in the transmission or reception of electrical energy, audio signals, video signals or similar purposes when owned by the owner of the installed poles, otherwise such items are considered personal property; and stationary property used for transportation of liquid and gaseous products, including, but not limited to, petroleum products, natural gas, water, and sewage;

[(4)] **(5)** "Tangible personal property" includes every tangible thing being the subject of ownership or part ownership whether animate or inanimate, other than money, and not forming part or parcel of real property as herein defined, but does not include 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.

Approved July 7, 2011

HB 749 [HB 749]

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 April as "Child Abuse Prevention Month" and designates the "blue ribbon" as the official state symbol for child abuse prevention

AN ACT to amend chapters 9 and 10, RSMo, by adding thereto two new sections relating to child abuse prevention.

SECTION
A. Enacting clause.
9.173. Child abuse prevention month designated for the month of April.
10.185. Blue ribbon recognized as the official state symbol for child abuse prevention.

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

SECTION A. ENACTING CLAUSE. — Chapters 9 and 10, RSMo, are amended by adding thereto two new sections, to be known as sections 9.173 and 10.185, to read as follows:

9.173. CHILD ABUSE PREVENTION MONTH DESIGNATED FOR THE MONTH OF APRIL. — The month of April is hereby designated as "Child Abuse Prevention Month" in the state of Missouri. The citizens of this state are encouraged to observe the month with appropriate activities and events to increase awareness of the prevalence and warning signs of child abuse and the prevention methods and measures available to reduce the incidence of child abuse in this state.

10.185. BLUE RIBBON RECOGNIZED AS THE OFFICIAL STATE SYMBOL FOR CHILD ABUSE PREVENTION. — The "blue ribbon" is hereby recognized as the official state symbol for child abuse prevention in the state of Missouri.

Approved May 5, 2011

HB 795 [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.

Designates the second Friday in March as "Missouri School Read-In Day"

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of school read-in day.

SECTION
A. Enacting clause.
9.137. Missouri school read-in day designated for second Friday in March.

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

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.137, to read as follows:

9.137. MISSOURI SCHOOL READ-IN DAY DESIGNATED FOR SECOND FRIDAY IN MARCH. — The second Friday in March shall be set apart and designated as "Missouri School Read-In Day". It is recommended to the people of the state that the day be appropriately observed through activities that will bring about an increased awareness of the importance and benefits of reading and encourage greater emphasis on reading, both in the school and in the home. Missouri school read-in day recognizes that reading proficiency is a major factor in determining a child's success in school, regardless of the socioeconomic status, race, ethnic background, or educational level of the child and the child's family.

Approved May 5, 2011

HB 798 [SCS HB 798, HB 141, HB 153, HCS HB 363, HB 415 & HB 813]

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.

Renames the Heroes Way Interstate Interchange Designation Program as the Heroes Way Interchange Designation Program and designates several memorial highways and bridges

AN ACT to repeal section 227.297, RSMo, and to enact in lieu thereof eight new sections relating to the designation of the highway infrastructure system.

SECTION

A. Enacting clause.
227.297. Heroes Way interstate interchange designation program established — signage — application procedure — joint committee to review applications.
227.418. Ferlin Husky Highway designated for portion of Highway 8 in St. Francois County.
227.420. Officer David Haynes Memorial Highway designated for portion of I-44 in St. Louis City.
227.422. Missouri State Highway Patrol Sergeant David May Memorial Highway designated for portion of U.S. Highway 67 in Butler County.
227.424. Missouri State Highway Patrol Sergeant Joseph G. Schuengel Memorial Highway designated for portion of I-40/64 in St. Louis County.
227.426. Glennon T. Moran Memorial Bridge designated for an I-270 bridge in St. Louis County.
227.427. Pvt Ova A. Kelley Medal of Honor Memorial Bridge designated for a bridge on State Highway E in Wright County.
227.429. Representative Otto Bean Memorial Highway designated for a portion of Highway 25 in Dunklin and Stoddard counties.

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

SECTION A. ENACTING CLAUSE. — Section 227.297, RSMo, is repealed and eight new sections enacted in lieu thereof, to be known as sections 227.297, 227.418, 227.420, 227.422, 227.424, 227.426, 227.427, and 227.429, to read as follows:

227.297. HEROES WAY INTERSTATE INTERCHANGE DESIGNATION PROGRAM ESTABLISHED — SIGNAGE — APPLICATION PROCEDURE — JOINT COMMITTEE TO REVIEW APPLICATIONS. — 1. This section establishes an **[**interstate**]** interchange designation program, to be known as the "Heroes Way **[**Interstate**]** Interchange Designation Program", to honor the fallen Missouri heroes who have been killed in action while performing active military duty with the armed forces in Afghanistan or Iraq on or after September 11, 2001. The signs shall be placed upon **[**the**]** interstate **or state numbered highway** interchanges in accordance with this section, and any applicable federal **and state** limitations or conditions on highway signage, including location and spacing.

2. Any person who is related by marriage, adoption, or consanguinity within the second degree to a member of the United States armed forces who was killed in action while performing active military duty with the armed forces in Afghanistan or Iraq on or after September 11, 2001, and who was a resident of this state at the time he or she was killed in action, may apply for an **[**interstate**]** interchange designation under the provisions of this section.

3. Any person described under subsection 2 of this section who desires to have an interstate **or state numbered highway** interchange designated after his or her family member shall petition the department of transportation by submitting the following:

(1) An application in a form prescribed by the director, describing the interstate **or state numbered highway** interchange for which the designation is sought and the proposed name of the **[**interstate**]** interchange. The application shall include the name of at least one current member of the general assembly who will sponsor the **[**interstate**]** interchange designation. The application may contain written testimony for support of the **[**interstate**]** interchange designation;

(2) Proof that the family member killed in action was a member of the United States armed forces and proof that such family member was in fact killed in action while performing active military duty with the United States armed forces in Afghanistan or Iraq on or after September 11, 2001. Acceptable proof shall be a statement from the Missouri veterans commission or the United States Department of Veterans Affairs so certifying such facts;

(3) By signing a form provided by the Missouri transportation department, the applicant shall certify that the applicant is related by marriage, adoption, or consanguinity within the second degree to the member of the United States armed forces who was killed in action; and

(4) A fee to be determined by the commission to cover the costs of constructing and maintaining the proposed **[**interstate**]** interchange signs. The fee shall not exceed the cost of constructing and maintaining each sign.

4. All moneys received by the department of transportation for the construction and maintenance of **[**an interstate**]** interchange signs shall be deposited in the state treasury to the credit of the state road fund.

5. The documents and fees required under this section shall be submitted to the department of transportation.

6. The department of transportation shall submit for approval or disapproval all applications for **[**interstate**]** interchange designations to the joint committee on transportation oversight. The joint committee on transportation oversight may review such applications at any scheduled meeting convened pursuant to section 21.795. If satisfied with the application and all its contents, the committee shall approve the application. The committee shall notify the department of transportation upon the approval or denial of an application for an **[**interstate**]** interchange designation.

7. The department of transportation shall give notice of any proposed **[**interstate**]** interchange designation under this section 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 website 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.

8. If the memorial **[**interstate**]** interchange designation request is not approved by the joint committee on transportation oversight, ninety-seven percent of the application fee shall be refunded to the applicant.

9. Two signs shall be erected for each **[**interstate**]** interchange designation processed under this section.

10. No **[**interstate**]** interchange may be named or designated after more than one member of the United States armed forces killed in action. Such person shall only be eligible for one **[**interstate**]** interchange designation under the provisions of this section.

11. Any highway signs erected for any **[**interstate**]** interchange designation 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 **[**interstate**]** interchange may be designated to honor persons other than the current designee. An existing **[**interstate**]** interchange 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.

227.418. FERLIN HUSKY HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 8 IN ST. FRANCOIS COUNTY. — The portion of Highway 8 in St. Francois County from the intersection of State Route M east to the intersection of Main Street in the city of Leadwood shall be designated the "Ferlin Huskey Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs for such designation to be paid for by private donation.

227.420. OFFICER DAVID HAYNES MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF I-44 IN ST. LOUIS CITY. — The portion of Interstate 44 in the city of St. Louis from the intersection of Vandeventer Avenue east to the intersection of Mississippi Avenue shall be designated the "Officer David Haynes 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.

227.422. MISSOURI STATE HIGHWAY PATROL SERGEANT DAVID MAY MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF U.S. HIGHWAY 67 IN BUTLER COUNTY. — The portion of U.S. Highway 67 from County Road 422 to the Highway 60 East/67 South Bypass in Butler County shall be designated as the "Missouri State Highway Patrol Sergeant David May 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.

227.424. MISSOURI STATE HIGHWAY PATROL SERGEANT JOSEPH G. SCHUENGEL MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF I-40/64 IN ST. LOUIS COUNTY. — The portion of Interstate 40/64 in St. Louis County from the Boone's Crossing overpass at mile marker 17.0 west to the Spirit of St. Louis Airport overpass at mile marker 13.8 shall be designated as the "Missouri State Highway Patrol Sergeant Joseph G. Schuengel 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.

227.426. GLENNON T. MORAN MEMORIAL BRIDGE DESIGNATED FOR AN I-270 BRIDGE IN ST. LOUIS COUNTY. — The bridge carrying Theiss Road over Interstate 270 in St. Louis County shall be designated the "Glennon T. Moran Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating such bridge, with the costs for such designation to be paid for by private donation.

227.427. PVT OVA A. KELLEY MEDAL OF HONOR MEMORIAL BRIDGE DESIGNATED FOR A BRIDGE ON STATE HIGHWAY E IN WRIGHT COUNTY. — The bridge carrying State Highway E over State Route 60 in Wright County shall be designated the "Pvt Ova A. Kelley Medal of Honor Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating such bridge, with the costs for such designation to be paid for by private donation.

227.429. REPRESENTATIVE OTTO BEAN MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 25 IN DUNKLIN AND STODDARD COUNTIES. — The portion of Highway 25 from US Route 412 to Route U/Route Z in Dunklin and Stoddard counties shall be designated the "Representative Otto Bean Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the cost to be paid for by private donations.

Approved July 14, 2011

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