

HB 278 [HB 278]

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 any state or local governmental entity; public building, park, or school; or public setting or place from banning or restricting the practice, mention, celebration, or discussion of any federal holidays

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to federal holidays.

SECTION

- A. Enacting clause.
9.015. Federal holidays, no ban or restriction on, when.

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 9.015, to read as follows:

9.015. FEDERAL HOLIDAYS, NO BAN OR RESTRICTION ON, WHEN. — **No state or local governmental entity, public building, public park, public school, or public setting or place shall ban or otherwise restrict the practice, mention, celebration, or discussion of any federal holiday.**

Vetoed July 1, 2013
Overridden September 11, 2013

HB 329 [SCS HB 329]

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

Changes the laws regarding financial institutions

AN ACT to repeal sections 208.010, 361.160, 408.140, 408.590, 408.592, 408.600, and 513.430, RSMo, and to enact in lieu thereof six new sections relating to financial institutions.

SECTION

- A. Enacting clause.
208.010. Eligibility for public assistance, how determined — means test — certain medical assistance benefits to include payment of deductible and coinsurance — prevention of spousal impoverishments, division of assets, community spouse defined — burial lots defined — diversion of institutionalized spouse's income.
361.160. Examination of banks and trust companies.
408.140. Additional charges or fees prohibited, exceptions — no finance charges if purchases are paid for within certain time limit, exception.
408.590. Division directors, report to governor and department director, contents.
408.600. Division directors to enforce provisions of sections 408.570 to 408.600 — complaints, how handled — hearings — remedies.
513.430. Property exempt from attachment — benefits from certain employee plans, exception — bankruptcy proceeding, fraudulent transfers, exception — construction of section.
408.592. Nonsupervised financial institutions to report — contents of report — duties of director of division of finance.

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

SECTION A. ENACTING CLAUSE. — Sections 208.010, 361.160, 408.140, 408.590, 408.592, 408.600, and 513.430, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 208.010, 361.160, 408.140, 408.590, 408.600, and 513.430, to read as follows:

208.010. ELIGIBILITY FOR PUBLIC ASSISTANCE, HOW DETERMINED — MEANS TEST — CERTAIN MEDICAL ASSISTANCE BENEFITS TO INCLUDE PAYMENT OF DEDUCTIBLE AND COINSURANCE — PREVENTION OF SPOUSAL IMPOVERISHMENTS, DIVISION OF ASSETS, COMMUNITY SPOUSE DEFINED — BURIAL LOTS DEFINED — DIVERSION OF INSTITUTIONALIZED SPOUSE'S INCOME. — 1. In determining the eligibility of a claimant for public assistance pursuant to this law, it shall be the duty of the **family support** division [of family services] to consider and take into account all facts and circumstances surrounding the claimant, including his or her living conditions, earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the claimant is not found to be in need, assistance shall be denied. In determining the need of a claimant, the costs of providing medical treatment which may be furnished pursuant to sections 208.151 to 208.158 [and 208.162] shall be disregarded. The amount of benefits, when added to all other income, resources, support, and maintenance shall provide such persons with reasonable subsistence compatible with decency and health in accordance with the standards developed by the **family support** division [of family services]; provided, when a husband and wife are living together, the combined income and resources of both shall be considered in determining the eligibility of either or both. "Living together" for the purpose of this chapter is defined as including a husband and wife separated for the purpose of obtaining medical care or nursing home care, except that the income of a husband or wife separated for such purpose shall be considered in determining the eligibility of his or her spouse, only to the extent that such income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the division) of such husband or wife living separately. In determining the need of a claimant in federally aided programs there shall be disregarded such amounts per month of earned income in making such determination as shall be required for federal participation by the provisions of the federal Social Security Act (42 U.S.C.A. 301 et seq.), or any amendments thereto. When federal law or regulations require the exemption of other income or resources, the **family support** division [of family services] may provide by rule or regulation the amount of income or resources to be disregarded.

2. Benefits shall not be payable to any claimant who:

(1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given away or sold a resource within the time and in the manner specified in this subdivision. In determining the resources of an individual, unless prohibited by federal statutes or regulations, there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this subsection, and subsection 5 of this section) any resource or interest therein owned by such individual or spouse within the twenty-four months preceding the initial investigation, or at any time during which benefits are being drawn, if such individual or spouse gave away or sold such resource or interest within such period of time at less than fair market value of such resource or interest for the purpose of establishing eligibility for benefits, including but not limited to benefits based on December, 1973, eligibility requirements, as follows:

(a) Any transaction described in this subdivision shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such individual furnishes convincing evidence to establish that the transaction was exclusively for some other purpose;

(b) The resource shall be considered in determining eligibility from the date of the transfer for the number of months the uncompensated value of the disposed of resource is divisible by the average monthly grant paid or average Medicaid payment in the state at the time of the

investigation to an individual or on his or her behalf under the program for which benefits are claimed, provided that:

a. When the uncompensated value is twelve thousand dollars or less, the resource shall not be used in determining eligibility for more than twenty-four months; or

b. When the uncompensated value exceeds twelve thousand dollars, the resource shall not be used in determining eligibility for more than sixty months;

(2) The provisions of subdivision (1) of this subsection shall not apply to a transfer, other than a transfer to claimant's spouse, made prior to March 26, 1981, when the claimant furnishes convincing evidence that the uncompensated value of the disposed of resource or any part thereof is no longer possessed or owned by the person to whom the resource was transferred;

(3) Has received, or whose spouse with whom he or she is living has received, benefits to which he or she was not entitled through misrepresentation or nondisclosure of material facts or failure to report any change in status or correct information with respect to property or income as required by section 208.210. A claimant ineligible pursuant to this subsection shall be ineligible for such period of time from the date of discovery as the **family support** division [of family services] may deem proper; or in the case of overpayment of benefits, future benefits may be decreased, suspended or entirely withdrawn for such period of time as the division may deem proper;

(4) Owns or possesses resources in the sum of one thousand dollars or more; provided, however, that if such person is married and living with spouse, he or she, or they, individually or jointly, may own resources not to exceed two thousand dollars; and provided further, that in the case of a temporary assistance for needy families claimant, the provision of this subsection shall not apply;

(5) Prior to October 1, 1989, owns or possesses property of any kind or character, excluding amounts placed in an irrevocable prearranged funeral or burial contract under chapter 436, or has an interest in property, of which he or she is the record or beneficial owner, the value of such property, as determined by the **family support** division [of family services], less encumbrances of record, exceeds twenty-nine thousand dollars, or if married and actually living together with husband or wife, if the value of his or her property, or the value of his or her interest in property, together with that of such husband and wife, exceeds such amount;

(6) In the case of temporary assistance for needy families, if the parent, stepparent, and child or children in the home owns or possesses property of any kind or character, or has an interest in property for which he or she is a record or beneficial owner, the value of such property, as determined by the **family support** division [of family services] and as allowed by federal law or regulation, less encumbrances of record, exceeds one thousand dollars, excluding the home occupied by the claimant, amounts placed in an irrevocable prearranged funeral or burial contract under chapter 436, one automobile which shall not exceed a value set forth by federal law or regulation and for a period not to exceed six months, such other real property which the family is making a good-faith effort to sell, if the family agrees in writing with the **family support** division [of family services] to sell such property and from the net proceeds of the sale repay the amount of assistance received during such period. If the property has not been sold within six months, or if eligibility terminates for any other reason, the entire amount of assistance paid during such period shall be a debt due the state;

(7) Is an inmate of a public institution, except as a patient in a public medical institution.

3. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the income and resources of a relative or other person living in the home shall be taken into account to the extent the income, resources, support and maintenance are allowed by federal law or regulation to be considered.

4. In determining eligibility and the amount of benefits to be granted pursuant to federally aided programs, the value of burial lots or any amounts placed in an irrevocable prearranged funeral or burial contract under chapter 436 shall not be taken into account or considered an asset of the burial lot owner or the beneficiary of an irrevocable prearranged funeral or funeral

contract. For purposes of this section, "burial lots" means any burial space as defined in section 214.270 and any memorial, monument, marker, tombstone or letter marking a burial space. If the beneficiary, as defined in chapter 436, of an irrevocable prearranged funeral or burial contract receives any public assistance benefits pursuant to this chapter and if the purchaser of such contract or his or her successors in interest transfer, amend, or take any other such actions regarding the contract so that any person will be entitled to a refund, such refund shall be paid to the state of Missouri with any amount in excess of the public assistance benefits provided under this chapter to be refunded by the state of Missouri to the purchaser or his or her successors. In determining eligibility and the amount of benefits to be granted under federally aided programs, the value of any life insurance policy where a seller or provider is made the beneficiary or where the life insurance policy is assigned to a seller or provider, either being in consideration for an irrevocable prearranged funeral contract under chapter 436, shall not be taken into account or considered an asset of the beneficiary of the irrevocable prearranged funeral contract. **In addition, the value of any funds, up to nine thousand nine hundred ninety-nine dollars, placed into an irrevocable personal funeral trust account, where the trustee of the irrevocable personal funeral trust account is a state or federally chartered financial institution authorized to exercise trust powers in the state of Missouri, shall not be taken into account or considered an asset of the person whose funds are so deposited if such funds are restricted to be used only for the burial, funeral, preparation of the body, or other final disposition of the person whose funds were deposited into said personal funeral trust account. No person or entity shall charge more than ten percent of the total amount deposited into a personal funeral trust in order to create or set up said personal funeral trust, and any fees charged for the maintenance of such a personal funeral trust shall not exceed three percent of the trust assets annually. Trustees may commingle funds from two or more such personal funeral trust accounts so long as accurate books and records are kept as to the value, deposits, and disbursements of each individual depositor's funds and trustees are to use the prudent investor standard as to the investment of any funds placed into a personal funeral trust. If the person whose funds are deposited into the personal funeral trust account receives any public assistance benefits pursuant to this chapter and any funds in the personal funeral trust account are, for any reason, not spent on the burial, funeral, preparation of the body, or other final disposition of the person whose funds were deposited into the trust account, such funds shall be paid to the state of Missouri with any amount in excess of the public assistance benefits provided under this chapter to be refunded by the state of Missouri to the person who received public assistance benefits or his or her successors. No contract with any cemetery, funeral establishment, or any provider or seller shall be required in regards to funds placed into a personal funeral trust account as set out in this subsection.**

5. In determining the total property owned pursuant to subdivision (5) of subsection 2 of this section, or resources, of any person claiming or for whom public assistance is claimed, there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or any two or more policies or contracts, or any combination of policies and contracts, which provides for the payment of one thousand five hundred dollars or less upon the death of any of the following:

- (1) A claimant or person for whom benefits are claimed; or
- (2) The spouse of a claimant or person for whom benefits are claimed with whom he or she is living. If the value of such policies exceeds one thousand five hundred dollars, then the total value of such policies may be considered in determining resources; except that, in the case of temporary assistance for needy families, there shall be disregarded any prearranged funeral or burial contract, or any two or more contracts, which provides for the payment of one thousand five hundred dollars or less per family member.

6. Beginning September 30, 1989, when determining the eligibility of institutionalized spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for

in section 208.151 and 42 U.S.C. Sections 1396a, et seq., the **family support** division [of family services] shall comply with the provisions of the federal statutes and regulations. As necessary, the division shall by rule or regulation implement the federal law and regulations which shall include but not be limited to the establishment of income and resource standards and limitations. The division shall require:

(1) That at the beginning of a period of continuous institutionalization that is expected to last for thirty days or more, the institutionalized spouse, or the community spouse, may request an assessment by the **family support** division [of family services] of total countable resources owned by either or both spouses;

(2) That the assessed resources of the institutionalized spouse and the community spouse may be allocated so that each receives an equal share;

(3) That upon an initial eligibility determination, if the community spouse's share does not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the community spouse a resource allowance to increase the community spouse's share to twelve thousand dollars;

(4) That in the determination of initial eligibility of the institutionalized spouse, no resources attributed to the community spouse shall be used in determining the eligibility of the institutionalized spouse, except to the extent that the resources attributed to the community spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section 1396r-5;

(5) That beginning in January, 1990, the amount specified in subdivision (3) of this subsection shall be increased by the percentage increase in the Consumer Price Index for All Urban Consumers between September, 1988, and the September before the calendar year involved; and

(6) That beginning the month after initial eligibility for the institutionalized spouse is determined, the resources of the community spouse shall not be considered available to the institutionalized spouse during that continuous period of institutionalization.

7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods required and for the reasons specified in 42 U.S.C. Section 1396p.

8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to the provisions of section 208.080.

9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to this chapter there shall be disregarded unless otherwise provided by federal or state statutes the home of the applicant or recipient when the home is providing shelter to the applicant or recipient, or his or her spouse or dependent child. The **family support** division [of family services] shall establish by rule or regulation in conformance with applicable federal statutes and regulations a definition of the home and when the home shall be considered a resource that shall be considered in determining eligibility.

10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts as determined due pursuant to the applicable provisions of federal regulations pertaining to Title XVIII Medicare Part B, except for hospital outpatient services or the applicable Title XIX cost sharing.

11. A "community spouse" is defined as being the noninstitutionalized spouse.

12. An institutionalized spouse applying for Medicaid and having a spouse living in the community shall be required, to the maximum extent permitted by law, to divert income to such community spouse to raise the community spouse's income to the level of the minimum monthly needs allowance, as described in 42 U.S.C. Section 1396r-5. Such diversion of income shall occur before the community spouse is allowed to retain assets in excess of the community spouse protected amount described in 42 U.S.C. Section 1396r-5.

361.160. EXAMINATION OF BANKS AND TRUST COMPANIES. — 1. The director of finance at least once each year, either personally or by a deputy or examiner appointed by the director, shall visit and examine every bank and trust company organized and doing business under the laws of this state, and every other corporation which is by law required to report to the director; except, for banks or trust companies receiving a Camel/MOECA 1 or Camel/MOECA 2 rating from the division of finance, the director of finance at least once each eighteen calendar months, **or for a private trust company at least once each thirty-six months**, either personally or by a deputy or examiner appointed by the director, shall visit and examine such bank or trust company, and the director of finance, at the director's discretion, may conduct the director's examination, or any part thereof, on the basis of information contained in examination reports of other states, the Federal Deposit Insurance Corporation or the Federal Reserve Board or in audits performed by certified public accountants. **For purposes of this subsection, a private trust company is one that does not engage in trust company business with the general public or otherwise hold itself out as a trustee or fiduciary for hire by advertising, solicitation, or other means and instead operates for the primary benefit of a family, relative of same family, or single family lineage, regardless of whether compensation is received or anticipated.** The director shall be afforded prompt and free access to any workpapers upon which a certified public accountant bases an audit. A certified public accountant shall retain workpapers for a minimum of three years after the date of issuance of the certified public accountant's report to the bank or trust company. The director or the director's agent may concentrate the examinations on institutions which the director believes have safety or soundness concerns.

2. The director, or the deputy or examiners designated by the director for that purpose, shall have power to examine any such corporation whenever, in the director's judgment, it may be deemed necessary or expedient, and shall have power to examine every agency located in this state of any foreign banking corporation and every branch in this state of any out-of-state bank, for the purpose of ascertaining whether it has violated any law of this state, and for such other purposes and as to such other matters as the director may prescribe.

3. The director and the director's deputy and examiners shall have power to administer oaths to any person whose testimony may be required in such examination or investigation of any such corporation or agency, and to compel the appearance and attendance of any person for the purpose of any such examination or investigation.

4. On every such examination inquiry shall be made as to the condition and resources of such corporation, the mode of conducting and managing its affairs, the actions of its directors or trustees, the investment of its funds, the safety and prudence of its management, the security afforded to its creditors, and whether the requirements of its charter and of law have been complied with in the administration of its affairs, and as to such other matters as the director may prescribe.

5. The director may also make such special investigations as the director deems necessary to determine whether any individual or corporation has violated any of the provisions of this law.

6. Such examination may be made and such inquiry instituted or continued in the discretion of the director after the director has taken possession of the property and business of any such corporation, until it shall resume business or its affairs shall be finally liquidated in accordance with the provisions of this chapter.

7. The result of each examination shall be certified by the director or the examiner upon the records of the corporation examined and the result of all examinations during the biennial period shall be embodied in the report to be made by the director of the department of insurance, financial institutions and professional registration to the legislature.

8. The director may contract with regulators in other states to provide for the examination of Missouri branches of out-of-state banks and branches of banks whose home state is Missouri. The agreements may provide for the payment by the home state of the cost of examinations conducted by the host state at the request of the home state regulators.

408.140. ADDITIONAL CHARGES OR FEES PROHIBITED, EXCEPTIONS — NO FINANCE CHARGES IF PURCHASES ARE PAID FOR WITHIN CERTAIN TIME LIMIT, EXCEPTION. — 1. No further or other charge or amount whatsoever shall be directly or indirectly charged, contracted for or received for interest, service charges or other fees as an incident to any such extension of credit except as provided and regulated by sections 367.100 to 367.200 and except:

(1) On loans for thirty days or longer which are other than "open-end credit" as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, a fee, not to exceed [five] ~~ten~~ percent of the principal amount loaned not to exceed seventy-five dollars may be charged by the lender; however, no such fee shall be permitted on any extension, refinance, restructure or renewal of any such loan, unless any investigation is made on the application to extend, refinance, restructure or renew the loan;

(2) The lawful fees actually and necessarily paid out by the lender to any public officer for filing, recording, or releasing in any public office any instrument securing the loan, which fees may be collected when the loan is made or at any time thereafter; however, premiums for insurance in lieu of perfecting a security interest required by the lender may be charged if the premium does not exceed the fees which would otherwise be payable;

(3) If the contract so provides, a charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or fifteen dollars, whichever is greater, not to exceed fifty dollars. If the contract so provides, a charge for late payment on each twenty-five dollars or less installment in default for a period of not less than fifteen days shall not exceed five dollars;

(4) If the contract so provides, a charge for late payment for a single payment note in default for a period of not less than fifteen days in an amount not to exceed five percent of the payment due; provided that, the late charge for a single payment note shall not exceed fifty dollars;

(5) Charges or premiums for insurance written in connection with any loan against loss of or damage to property or against liability arising out of ownership or use of property as provided in section 367.170; however, notwithstanding any other provision of law, with the consent of the borrower, such insurance may cover property all or part of which is pledged as security for the loan, and charges or premiums for insurance providing life, health, accident, or involuntary unemployment coverage;

(6) Reasonable towing costs and expenses of retaking, holding, preparing for sale, and selling any personal property in accordance with section 400.9;

(7) Charges assessed by any institution for processing a refused instrument plus a handling fee of not more than twenty-five dollars;

(8) If the contract or promissory note, signed by the borrower, provides for attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the amount due and payable under such contract or promissory note, together with any court costs assessed. The attorney fees shall only be applicable where the contract or promissory note is referred for collection to an attorney, and is not handled by a salaried employee of the holder of the contract;

(9) Provided the debtor agrees in writing, the lender may collect a fee in advance for allowing the debtor to defer up to three monthly loan payments, so long as the fee is no more than the lesser of fifty dollars or ten percent of the loan payments deferred, no extensions are made until the first loan payment is collected and no more than one deferral in a twelve-month period is agreed to and collected on any one loan; this subdivision applies to nonprecomputed loans only and does not affect any other subdivision;

(10) If the open-end credit contract is tied to a transaction account in a depository institution, such account is in the institution's assets and such contract provides for loans of thirty-one days or longer which are "open-end credit", as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, the creditor may charge a credit advance fee

of **up to** the lesser of [twenty-five] **seventy-five** dollars or [five] **ten** percent of the credit advanced from time to time from the line of credit; such credit advance fee may be added to the open-end credit outstanding along with any interest, and shall not be considered the unlawful compounding of interest as that term is defined in section 408.120;

(11) A deficiency waiver addendum, guaranteed asset protection, or a similar product purchased as part of a loan transaction with collateral and at the borrower's consent, provided the cost of the product is disclosed in the loan contract, is reasonable, and the requirements of section 408.380 are met.

2. Other provisions of law to the contrary notwithstanding, an open-end credit contract under which a credit card is issued by a company, financial institution, savings and loan or other credit issuing company whose credit card operations are located in Missouri may charge an annual fee, provided that no finance charge shall be assessed on new purchases other than cash advances if such purchases are paid for within twenty-five days of the date of the periodic statement therefor.

3. Notwithstanding any other provision of law to the contrary, in addition to charges allowed pursuant to section 408.100, an open-end credit contract provided by a company, financial institution, savings and loan or other credit issuing company which is regulated pursuant to this chapter may charge an annual fee not to exceed fifty dollars.

408.590. DIVISION DIRECTORS, REPORT TO GOVERNOR AND DEPARTMENT DIRECTOR, CONTENTS. — 1. [Each division director shall cause each state financial institution which he supervises, licenses or charters and which has an office within a county or a city, such county or city having a population in excess of two hundred fifty thousand, to be examined periodically during which examination the following shall be determined:

(1) The number and total dollar amount of residential real estate loans originated, purchased, or foreclosed by the financial institution after January 1, 1980, in each of the following categories:

(a) Loans secured by residential real estate located outside the state of Missouri other than in counties contiguous to the state of Missouri;

(b) Loans secured by residential real estate located in the state of Missouri or in the counties of other states which counties are contiguous to the border of the state of Missouri, which number and dollar amount shall be further reported by the county in which the property is located;

(2) The number of residential real estate loan applications denied by the institution in which the real estate which was to secure the loan is situated in a county or city with a population in excess of two hundred and fifty thousand by such county or city;

(3) By a method to be determined by each division director, such facts as will enable the division director to conclude whether or not the institution has engaged or is engaged in any practice in violation of sections 408.570 to 408.600.

2. Each division director may issue such regulations as are necessary to require the maintenance of records from which the conclusions required by this section can be determined.

3. Each division director shall report annually to the governor and the director of the department his findings made in accordance with the provisions of this section and which shall include information reported under the provisions of the Federal Home Mortgage Disclosure Act (12 U.S.C. 2801 et seq.), which findings shall be made as to the total industry he regulates, and by each county or city with a population in excess of two hundred fifty thousand. This report shall be maintained by the division as a public document for a period of five years.

4. The annual reports of the division directors shall state the method or methods used by the division director to reach his conclusions both in examination and analysis; and shall contain such facts as he deems necessary to support those conclusions, including but not limited to:

(1) The information required to be obtained by the provisions of subsection 1 of this section;

(2)] **As to the state financial institutions under the supervision of the respective divisions, each division director shall report annually to the governor and the director of the department, with regard to each county or city with a population in excess of two hundred fifty thousand the following:**

(1) The number and type of violations of sections 408.570 to 408.600 which are found to have occurred, a statement of the action or actions taken to enforce the provisions of said sections, and the names of the financial institutions which have been found upon a hearing to have violated the provisions of said sections].

(3)]; **and**

(2) The number and nature of all complaints received by the department or division regarding alleged violations of any provision of sections 408.570 to 408.600 and the action taken on each complaint by the division.

2. This report shall be maintained by each division as a public document for a period of five years.

408.600. DIVISION DIRECTORS TO ENFORCE PROVISIONS OF SECTIONS 408.570 TO 408.600 — COMPLAINTS, HOW HANDLED — HEARINGS — REMEDIES. — 1. Each division director shall enforce the provisions of sections 408.570 to 408.600. With respect to state financial institutions which he supervises, licenses or charters, each division director shall utilize the powers granted him under the general statutory authority by which he regulates, supervises, licenses, or charters such institutions, as well as the powers granted him by sections 408.570 to 408.600. The director of the division of finance shall enforce the provisions of sections 408.570 to 408.600 as they pertain to state financial institutions not supervised, licensed or chartered by a division director, and shall in that enforcement have such powers as are granted in said sections. The enforcement powers granted by subsections 2 through 5 of this section shall be utilized by the director of the division of finance concerning national banks, by the director of [savings and loan supervision] **the division of finance** concerning federal savings and loan associations, and by the director of credit unions concerning federal credit unions.

2. Any person who alleges to have been aggrieved as a result of a violation of section 408.575 or 408.580 may file a complaint with the appropriate division director. Within ninety days of the receipt of such complaint, the division director shall determine whether there is any reason to believe that a violation of section 408.575 or 408.580 has occurred. If the division director determines that there is such reason, then he shall undertake to resolve the complaint by negotiation or he shall conduct a hearing in accordance with the provisions of subsection 3 of this section, except that the hearing shall be held in the locality where the alleged violation occurred.

3. If the division director[, on the basis of an examination, an investigation of a complaint which has not been resolved by negotiation, a report required to be filed by section 408.592, or any public document or information,] has reason to believe that a violation of section 408.575 or 408.580 has occurred or does exist, the division director shall conduct a hearing in accordance with chapter 536. If the evidence establishes a violation of any provision of section 408.575 or 408.580, the division director may issue a cease and desist order stating specifically the unlawful practice to be discontinued, which order shall be served personally, or by certified mail. The decision of the division director shall be appealable directly to the circuit court pursuant to chapter 536.

4. If, after an order of the division director has become final, the director believes a violation of any provision of the order has occurred, he may seek an injunction to prohibit such violations in any court of competent jurisdiction. For each violation of such injunction, the court may assess a fine which may be recovered with costs by the state in any court of competent jurisdiction in an action to be prosecuted by the attorney general.

5. The remedies provided by this section shall not be interpreted as exclusive remedies but shall be in addition to remedies otherwise available to the director or to any individual damaged by a violation of sections 408.570 to 408.600.

513.430. PROPERTY EXEMPT FROM ATTACHMENT — BENEFITS FROM CERTAIN EMPLOYEE PLANS, EXCEPTION — BANKRUPTCY PROCEEDING, FRAUDULENT TRANSFERS, EXCEPTION — CONSTRUCTION OF SECTION. — 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

(1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of such person or a dependent of such person, not to exceed three thousand dollars in value in the aggregate;

(2) A wedding ring not to exceed one thousand five hundred dollars in value and other jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed five hundred dollars in value in the aggregate;

(3) Any other property of any kind, not to exceed in value six hundred dollars in the aggregate;

(4) Any implements or professional books or tools of the trade of such person or the trade of a dependent of such person not to exceed three thousand dollars in value in the aggregate;

(5) Any motor vehicles, not to exceed three thousand dollars in value in the aggregate;

(6) Any mobile home used as the principal residence but not attached to real property in which the debtor has a fee interest, not to exceed five thousand dollars in value;

(7) Any one or more unmaturing life insurance contracts owned by such person, other than a credit life insurance contract;

(8) The amount of any accrued dividend or interest under, or loan value of, any one or more unmaturing life insurance contracts owned by such person under which the insured is such person or an individual of whom such person is a dependent; provided, however, that if proceedings under Title 11 of the United States Code are commenced by or against such person, the amount exempt in such proceedings shall not exceed in value one hundred fifty thousand dollars in the aggregate less any amount of property of such person transferred by the life insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred automatically under a life insurance contract with such company or society that was entered into before commencement of such proceedings. No amount of any accrued dividend or interest under, or loan value of, any such life insurance contracts shall be exempt from any claim for child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such proceedings under any such insurance contract which was purchased by such person within one year prior to the commencement of such proceedings;

(9) Professionally prescribed health aids for such person or a dependent of such person;

(10) Such person's right to receive:

(a) A Social Security benefit, unemployment compensation or a public assistance benefit;

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

(d) Alimony, support or separate maintenance, not to exceed seven hundred fifty dollars a month;

(e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan, profit-sharing plan, nonpublic retirement plan or any plan described, defined, or established pursuant to section 456.072, the person's right to a participant account in any deferred compensation program offered by the state of Missouri or any of its political subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of such person and any dependent of such person unless:

a. Such plan or contract was established by or under the auspices of an insider that employed such person at the time such person's rights under such plan or contract arose;

b. Such payment is on account of age or length of service; and

c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. 401(a), 403(a), 403(b), 408, 408A or 409); except that any such payment to any person shall be subject to attachment or execution pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment of dissolution;

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan [or] , profit-sharing plan, **health savings plan, or similar plan, including an inherited account or plan**, that is qualified under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, **whether such participant's or beneficiary's interest arises by inheritance, designation, appointment, or otherwise**, except as provided in this paragraph. Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its division of family services. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meaning given to them in Section 414(p) of the Internal Revenue Code of 1986, as amended. If proceedings under Title 11 of the United States Code are commenced by or against such person, no amount of funds shall be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined in subsection 2 of section 428.024 and for the period such person participated within three years prior to the commencement of such proceedings. For the purposes of this section, when the fraudulently conveyed funds are recovered and after, such funds shall be deducted and then treated as though the funds had never been contributed to the plan, contract, or trust;

(11) The debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

2. Nothing in this section shall be interpreted to exempt from attachment or execution for a valid judicial or administrative order for the payment of child support or maintenance any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal Revenue Code of 1986, as amended.

[408.592. NONSUPERVISED FINANCIAL INSTITUTIONS TO REPORT — CONTENTS OF REPORT — DUTIES OF DIRECTOR OF DIVISION OF FINANCE. — 1. Each state financial institution which is not supervised, licensed or chartered by a division director, which operates or has a place of business within a county having a population in excess of two hundred fifty thousand or a city not within a county and which originated an aggregate of five hundred thousand dollars or more in residential real estate loans in Missouri during the last calendar year shall, on or before a date of ninety days after the end of the fiscal year of the institution, file with the director of the division of finance an annual statement for each such county or city showing separately the number and total dollar amount of residential real estate loans both within and outside of that county or city which were:

- (1) Originated by that institution during the preceding fiscal year;
- (2) Purchased by that institution during the preceding fiscal year; and
- (3) Foreclosed by that institution during the preceding fiscal year.

2. The information required to be filed under subsection 1 of this section shall be further itemized in order to clearly and conspicuously disclose the following:

(1) The number and dollar amount of each item by census tracts for residential real estate loans on property located within that county or city;

(2) The number and dollar amount of each item for all residential real estate loans on property located outside that county or city.

3. The information required to be filed under subdivisions (1) and (2) of subsection 1 shall also be itemized in order to clearly and conspicuously disclose the following:

(1) The number and dollar amount of loans made for the purchase of residential real estate which are insured under Title II of the National Housing Act or under Title V of the Housing Act of 1949 or which are guaranteed under Chapter 37 of Title 38, United States Code;

(2) The number and dollar amount of loans made for the purchase of residential real estate, including loans insured under federal housing insurance programs;

(3) The number and dollar amount of loans made for the repair, rehabilitation or remodeling of residential real estate.

4. Each statement filed under the provisions of this section shall be filed on forms approved or furnished by the director of the division of finance and shall be verified by two officers of the institution. Wherever possible, the director of the division of finance shall make the forms consistent with the disclosure forms required under the Federal Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 et seq.).

5. The director of the division of finance shall maintain the statements filed under the provisions of this section for a period of not less than five years and shall make the statements available to the public for inspection during regular business hours and for copying at a cost not to exceed the actual cost to the division.]

Vetoed July 2, 2013

Overridden September 11, 2013

HB 339 [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.

Requires an uninsured motorist to forfeit recovery of noneconomic loss under specified circumstances

AN ACT to amend chapter 303, RSMo, by adding thereto one new section relating to the forfeiture of collecting noneconomic damages for failing to comply with the motor vehicle financial responsibility law.

SECTION

A. Enacting clause.

303.390. Uninsured motorist, waiver of ability to collect noneconomic damages, when — inapplicability, when.

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

SECTION A. ENACTING CLAUSE. — Chapter 303, RSMo, is amended by adding thereto one new section, to be known as section 303.390, to read as follows:

303.390. UNINSURED MOTORIST, WAIVER OF ABILITY TO COLLECT NONECONOMIC DAMAGES, WHEN — INAPPLICABILITY, WHEN. — 1. An uninsured motorist shall waive the ability to have a cause of action or otherwise collect for noneconomic loss against a person who is in compliance with the financial responsibility laws of this chapter due to a motor vehicle accident in which the insured driver is alleged to be at fault. For purposes of this section, the term "uninsured motorist" shall include:

(1) An uninsured driver who is the owner of the vehicle;

(2) An uninsured permissive driver of the vehicle; and
 (3) Any uninsured nonpermissive driver. Such waiver shall not apply if it can be proven that the accident was caused, in whole or in part, by a tort-feasor who operated a motor vehicle under the influence of drugs or alcohol, or who is convicted of involuntary manslaughter under subdivision (2) of subsection 1 of section 565.024, or assault in the second degree under subdivision (4) of subsection 1 of section 565.060.

2. The provisions of this section shall not apply to an uninsured motorist whose immediately previous insurance policy meeting the requirements of section 303.190 was terminated or nonrenewed for failure to pay the premium, unless notice of termination or nonrenewal for failure to pay such premium was provided by such insurer at least six months prior to the time of the accident.

3. In an action against a person who is in compliance with the financial responsibility laws prescribed by this chapter by a person deemed to have waived recovery under subsection 1 of this section:

(1) Any award in favor of such person shall be reduced by an amount equal to the portion of the award representing compensation for noneconomic losses;

(2) The trier of fact shall not be informed, directly or indirectly, of such waiver or of its effect on the total amount of such person's recovery.

4. Nothing in this section shall be construed to preclude recovery against an alleged tort-feasor of benefits provided or economic loss coverage.

5. Passengers in the uninsured motor vehicle are not subject to such recovery limitation.

Vetoed July 3, 2013

Overridden September 11, 2013

HB 650 [SS SCS HB 650]

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 Department of Natural Resources

AN ACT to repeal sections 43.543, 60.185, 60.195, 60.301, 60.321, 60.451, 60.510, 60.530, 60.540, 60.550, 60.560, 60.570, 60.580, 60.590, 60.595, 60.600, 60.610, 60.620, 60.653, 60.670, 236.410, 253.090, 253.180, 253.185, 256.117, 258.010, 258.020, 258.030, 258.060, 258.070, 258.080, 260.200, 260.205, 260.235, 260.249, 260.262, 260.365, 260.379, 260.380, 260.390, 260.395, 260.434, 260.475, 261.023, 444.772, 621.250, 640.010, 640.012, 640.017, 640.075, 640.715, 640.725, 643.079, 644.051, 644.052, and 644.054, RSMo, and to enact in lieu thereof sixty-three new sections relating to the department of natural resources, with penalty provisions and an emergency clause for certain sections.

SECTION

- A. Enacting clause.
- 43.543. Certain agencies to submit fingerprints, use of fingerprints for background search — procedure for submission.
- 60.185. County surveyors, duties.
- 60.195. United States field notes on survey of counties, how obtained and filed in office of county surveyor.
- 60.301. Definitions.
- 60.321. Lost corners, monumentation, procedure — violation deemed misconduct.
- 60.451. Missouri coordinate system zones precisely defined.
- 60.510. Powers and duties of department.
- 60.530. Surveyor, duties.
- 60.540. Department may acquire property, how.
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- 60.550. Ownership of markers in department, unauthorized tampering prohibited, duty to prosecute.
60.560. Attorney general to advise commission or department.
60.570. Headquarters, where located — landsurvey building, name of.
60.580. Right of entry, immune to trespass arrest.
60.590. Records to be furnished department — department to furnish records at cost.
60.595. Department revolving services fund, purpose — unexpended balances.
60.600. Registered surveyors to be used — private employment prohibited.
60.610. Department may contract.
60.620. Land survey commission established — appointment — terms — qualifications — chairman, selection — meetings, quorum — expenses — duties — annual report, content to be public.
60.653. Recorder of deeds, duties — copies of plats to be evidence when certified.
60.670. Digital cadastral parcel mapping, minimum standards, rulemaking authority.
236.410. Council established — members, terms, qualifications, officers — meetings — quorum — compensation — report.
253.090. State park earnings fund created, how used.
253.180. Domestic animals prohibited from running at large.
253.185. Domestic animals, how controlled — prohibited in buildings, exception — dog park, designated area.
256.117. Funding for operation of map repository from document services fund — money from sales of maps or products deposited in fund.
256.438. Fund created, use of moneys.
258.010. Committees, councils and boards authorized — staffing by department.
258.060. Duties and functions of department.
258.070. Compensation, expenses of member agencies' representatives.
258.080. Fund created — moneys appropriated, for what purposes — funds not to revert.
260.200. Definitions.
260.205. Permit required to operate facility, and construction permit to construct facility, requirements, exceptions, fees — plans to be submitted — permits revoked or suspended, when — disclosure statement, requirements.
260.214. Preliminary site investigation approval, not required for certain counties — severability clause.
260.235. Appeal, judicial review, procedure — injunction based on seriousness of threat to environment — performance bond required, forfeited, when.
260.249. Administrative penalties — not to be assessed for minor violation, definition — amount set by rule, payment when — appeal effect — surcharge due when — unpaid penalty, collection — time limitation to assess violation — judicial appeal — civil action effect, exception.
260.262. Retailers of lead-acid batteries, duties — notice to purchaser, contents.
260.365. Hazardous waste management commission created — composition, qualifications — compensation — terms — meetings, notice required, quorum.
260.380. Duties of hazardous waste generators — fees to be collected, disposition — exemptions — expiration of fees.
260.390. Duties of hazardous waste facility owners and operators — tax to be collected, disposition — duties upon termination of use of facility — inspection fees, commercial facilities, requirements.
260.395. Transportation of hazardous waste, how permitted — fees, how determined — notice prior to issuance of permit — permit not required of whom — application for certification, when — permit maintained for postclosure care period — leachate collection system required — railroad hazardous waste transportation, fee.
260.475. Fees to be paid by hazardous waste generators — exceptions — deposit of moneys — violations, penalty — deposit — fee requirement, expiration — fee structure review.
261.023. Powers, duties, functions transferred to department of agriculture and certain other designated agencies.
444.772. Permit — application, contents, fees — amendment, how made — successor operator, duties of.
621.250. Appeals from decisions of certain environmental commissions to be heard by administrative hearing commission — procedure.
640.010. Department created — director, appointment, powers, duties — transfer of certain agencies.
640.012. Burden of proof in contested cases heard by administrative hearing commission, exceptions.
640.017. Unified permit schedule authorized for activities requiring multiple permits — director's duties — procedure — rulemaking authority.
640.026. Enforcement and penalties, list of documents produced for external dissemination — JCAR review, contents.
640.065. Revolving services fund created, use of moneys.
640.075. Brochures on Thomas Hart Benton murals and capitol art work, publication.
640.080. E. coli measuring standard — posting of signs when beaches exceed, language — authority to close beaches.
640.236. Punitive and exemplary damages, exempt from, when.
640.715. Notification by owners or operators, information required — department to issue permit, when.
640.725. Inspection of facility, when, records retention period — automatic shutoff system required.
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 — fee structure review.

- 644.029. New water quality requirements, grandfathering provision.
- 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.
- 644.052. Permit types, fees, amounts — requests for permit modifications — requests for federal clean water certifications.
- 644.054. Fees, billing and collection — administration, generally — fees to become effective, when — fees to expire, when — variances granted, when — fee structure review.
- 644.057. Clean water fee structure review, requirements.
- 644.062. Provisional variances granted, when — procedure.
1. Annual stakeholder meeting in each park district — stakeholders may petition director, when — stakeholder.
 2. Joint committee established, members, duties, report.
- 258.020. Agency heads to be on council.
- 258.030. Council officers — appointment — duties.
- 260.379. Permit not to be issued, when — notice to department of certain crimes, penalty for failure to notify — reinstatement, when.
- 260.434. Proposed sites, hazardous waste facilities — department to examine transportation routes — department to examine local government's capability to respond to emergency — interagency agreement.
- B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 43.543, 60.185, 60.195, 60.301, 60.321, 60.451, 60.510, 60.530, 60.540, 60.550, 60.560, 60.570, 60.580, 60.590, 60.595, 60.600, 60.610, 60.620, 60.653, 60.670, 236.410, 253.090, 253.180, 253.185, 256.117, 258.010, 258.020, 258.030, 258.060, 258.070, 258.080, 260.200, 260.205, 260.235, 260.249, 260.262, 260.365, 260.379, 260.380, 260.390, 260.395, 260.434, 260.475, 261.023, 444.772, 621.250, 640.010, 640.012, 640.017, 640.075, 640.715, 640.725, 643.079, 644.051, 644.052, and 644.054, RSMo, are repealed and sixty-three new sections enacted in lieu thereof, to be known as sections 43.543, 60.185, 60.195, 60.301, 60.321, 60.451, 60.510, 60.530, 60.540, 60.550, 60.560, 60.570, 60.580, 60.590, 60.595, 60.600, 60.610, 60.620, 60.653, 60.670, 236.410, 253.090, 253.180, 253.185, 256.117, 256.438, 258.010, 258.060, 258.070, 258.080, 260.200, 260.205, 260.214, 260.235, 260.249, 260.262, 260.365, 260.380, 260.390, 260.395, 260.475, 261.023, 444.772, 621.250, 640.010, 640.012, 640.017, 640.026, 640.065, 640.075, 640.080, 640.236, 640.715, 640.725, 643.079, 644.029, 644.051, 644.052, 644.054, 644.057, 644.062, 1, and 2, to read as follows:

43.543. CERTAIN AGENCIES TO SUBMIT FINGERPRINTS, USE OF FINGERPRINTS FOR BACKGROUND SEARCH—PROCEDURE FOR SUBMISSION. — Any state agency listed in section 621.045, the division of professional registration of the department of insurance, financial institutions and professional registration, the department of social services, the supreme court of Missouri, the state courts administrator, the department of elementary and secondary education, **the department of natural resources**, the Missouri lottery, the Missouri gaming commission, or any state, municipal, or county agency which screens persons seeking employment with such agencies or issuance or renewal of a license, permit, certificate, or registration of authority from such agencies; or any state, municipal, or county agency or committee, or state school of higher education which is authorized by state statute or executive order, or local or county ordinance to screen applicants or candidates seeking or considered for employment, assignment, contracting, or appointment to a position within state, municipal, or county government; or the Missouri peace officers standards and training, POST, commission which screens persons, not employed by a criminal justice agency, who seek enrollment or access into a certified POST training academy police school, or persons seeking a permit to purchase or possess a firearm for employment as a watchman, security personnel, or private investigator, or law enforcement agencies which screen persons seeking issuance or renewal of a license, permit, certificate, or registration to purchase or possess a firearm shall submit two sets of fingerprints to the Missouri state highway patrol, Missouri criminal records repository, for the purpose of checking the

person's criminal history. The first set of fingerprints shall be used to search the Missouri criminal records repository and the second set shall be submitted to the Federal Bureau of Investigation to be used for searching the federal criminal history files if necessary. The fingerprints shall be submitted on forms and in the manner prescribed by the Missouri state highway patrol. Fees assessed for the searches shall be paid by the applicant or in the manner prescribed by the Missouri state highway patrol. Notwithstanding the provisions of section 610.120, all records related to any criminal history information discovered shall be accessible and available to the state, municipal, or county agency making the record request.

60.185. COUNTY SURVEYORS, DUTIES. — The county surveyor of every county or city shall:

(1) Keep a fair and correct record of all surveys made by himself and his deputies, in a well-bound book, with a convenient index, to be procured at the expense of the county or city for that purpose, which books and indexes shall be the property of such county or city, and shall be known as the county surveyor's plat book, and every such surveyor shall record in such book a plat of all surveys executed by him or his deputies, within two weeks after the plat of survey has been certified to, and such books shall be kept at the county seat or city hall and subject to inspection by any person interested therein, under the supervision of the county surveyor for such county or city;

(2) Number his surveys progressively;

(3) Deliver a copy of any plat of survey to any person requiring such a copy, on payment of an amount equal to the fees allowed to the recorder of deeds for such a document, so long as such records shall remain in his possession, and after such record shall have been deposited in the office of the recorder of deeds, the recorder shall, on the request of anyone and on payment of his fees for such service, deliver to such person a duly certified copy of such records under the seal of his office, which shall be accepted as evidence, to all intents and purposes, as the originals themselves;

(4) Maintain a copy of corner restoration documents as required in section 60.321 when provided by the Missouri department of [natural resources] **agriculture**, and subject to inspection and copying by any person interested therein during the normal office hours of the county on payment of the fees allowed to the recorder for similar documents.

60.195. UNITED STATES FIELD NOTES ON SURVEY OF COUNTIES, HOW OBTAINED AND FILED IN OFFICE OF COUNTY SURVEYOR. — The several county commissions in this state are hereby authorized, in all cases wherein they shall consider it to be the interest of their counties, to obtain from the Missouri department of [natural resources] **agriculture** a certified copy of so much of the field notes of all surveys lying within their counties, respectively, which have been and may be made by the United States, as relates to the description of the township, section, fractional section, quarter section and legal subdivisional corners, the variation of the needle at which the east and west boundaries of township or range lines were run, the length of the north and south, as well as east and west sectional lines; also, the fallings of all east and west township and sectional lines the same to be filed in the office of the county surveyor of their counties, respectively.

60.301. DEFINITIONS. — Whenever the following words and terms are used in this chapter they shall have the following meaning unless the context clearly indicates that a different meaning is intended:

(1) "Corners of the United States public land survey", those points that determine the boundaries of the various subdivisions represented on the official plat such as the township corner, the section corner, the quarter-section corner, grant corner and meander corner;

(2) "Existent corner", a corner whose position can be identified by verifying the evidence of the original monument or its accessories, or by some physical evidence described in the field

notes, or located by an acceptable supplemental survey record or some physical evidence thereof, or by testimony. The physical evidence of a corner may have been entirely obliterated but the corner will be considered existent if its position can be recovered through the testimony of one or more witnesses who have a dependable knowledge of the original location. A legally reestablished corner shall have the same status as an existent corner;

(3) "Lost corner", a corner whose position cannot be determined, beyond reasonable doubt, either from traces of the original marks or from acceptable evidence or testimony that bears upon the original position;

(4) "Monument", the physical object which marks the corner point determined by the surveying process. The accessories, such as bearing trees, bearing objects, reference monuments, mounds of stone and other similar objects that aid in identifying the corner position, are also considered a part of a corner monument;

(5) "Obliterated, decayed or destroyed corner", an existent corner at whose point there are no remaining traces of the original monument or its accessories, but whose location has been perpetuated by subsequent surveys, or the point may be recovered beyond reasonable doubt by the acts and testimony of local residents, competent surveyors, other qualified local authorities or witnesses, or by some acceptable record evidence. A position that depends upon the use of collateral evidence can be accepted only if duly supported, generally through proper relation to known corners, and agreement with the field notes regarding distances to natural objects, stream crossings, line trees, etc., or unquestionable testimony;

(6) "Original government survey", that survey executed under the authority of the United States government as recorded on the official plats and field notes of the United States public land survey maintained by the Missouri department of [natural resources] **agriculture**;

(7) "Proportionate measurement", a measurement of a line that gives equal relative weight to all parts of the line. The excess or deficiency between two existent corners is so distributed that the amount of excess or deficiency given to each interval bears the same proportion to the whole difference as the record length of the interval bears to the whole record distance:

(a) "Single proportionate measurement", a measurement of a line applied to a new measurement made between known points on a line to determine one or more positions on that line;

(b) "Double proportionate measurement", a measurement applied to a new measurement made between four known corners, two each on intersecting meridional and latitudinal lines, for the purpose of relating the intersection to both. The procedure is described as follows: First, measurements will be made between the nearest existent corners north and south of the lost corner. A temporary point will be determined to locate the latitude of the lost corner on the straight line connecting the existent corners and at the proper proportionate distance. Second, measurements will be made between the nearest existent corners east and west of the lost corner. A temporary point will be determined to locate the longitude of the lost corner on the straight line connecting the existent corners and at the proportionate distance. Third, determine the location of the lost corner at the intersection of an east-west line through the point determining the latitude of the lost corner with a north-south line through the point determining the longitude of the lost corner. When the total length of the line between the nearest existing corners was not measured in the original government survey, the record distance from one existing corner to the lost corner will be used instead of the proportionate distance. This exception will apply to either or both of the east-west or north-south lines;

(8) "Record distance", the distance or length as shown on the original government survey. In determining record distances, consideration shall be given as to whether the distance was measured on a random or true line.

60.321. LOST CORNERS, MONUMENTATION, PROCEDURE — VIOLATION DEEMED MISCONDUCT. — For the purpose of perpetuating the corners of the United States public land survey, every surveyor who reestablishes a lost corner or restores an existent corner shall

monument the corner and shall file an instrument showing such reestablishment or restoration with the Missouri department of [natural resources] **agriculture**, in accordance with the specifications and procedures adopted by the Missouri department of [natural resources] **agriculture**. Any surveyor who willfully and knowingly fails to perpetuate corners in accordance with this section is guilty of misconduct in the practice of land surveying.

60.451. MISSOURI COORDINATE SYSTEM ZONES PRECISELY DEFINED. — 1. For the purpose of more precisely defining the Missouri coordinate system of 1927, the following definition by the United States Coast and Geodetic Survey is adopted:

(1) The Missouri coordinate system of 1927, east zone, is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 90 degrees — 30 minutes west of Greenwich, on which meridian the scale is set at one part in fifteen thousand too small. The origin of coordinates is at the intersection of the meridian 90 degrees — 30 minutes west of Greenwich and the parallel 35 degrees — 50 minutes north latitude. This origin is given the coordinates: $x = 500,000$ feet and $y = 0$ feet;

(2) The Missouri coordinate system of 1927, central zone, is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 92 degrees — 30 minutes west of Greenwich, on which meridian the scale is set at one part in fifteen thousand too small. The origin of coordinates is at the intersection of the meridian 92 degrees — 30 minutes west of Greenwich and the parallel of 35 degrees — 50 minutes north latitude. This origin is given the coordinates: $x = 500,000$ feet and $y = 0$ feet;

(3) The Missouri coordinate system of 1927, west zone, is a transverse Mercator projection of the Clarke spheroid of 1866, having a central meridian 94 degrees — 30 minutes west of Greenwich, on which meridian the scale is set at one part in seventeen thousand too small. The origin of coordinates is at the intersection of the meridian 94 degrees — 30 minutes west of Greenwich and the parallel 36 degrees — 10 minutes north latitude. This origin is given the coordinates: $x = 500,000$ feet and $y = 0$ feet.

2. For purposes of more precisely defining the Missouri coordinate system of 1983, the following definition by the National Ocean Survey/National Geodetic Survey is adopted:

(1) The Missouri coordinate system 1983, east zone, is a transverse Mercator projection of the North American Datum of 1983 having a central meridian 90 degrees — 30 minutes west of Greenwich, on which meridian the scale is set at one part in fifteen thousand too small. The origin of coordinates is at the intersection of the meridian 90 degrees — 30 minutes west of Greenwich and the parallel 35 degrees — 50 minutes north latitude. This origin is given the coordinates: $x = 250,000$ meters and $y = 0$ meters;

(2) The Missouri coordinate system 1983, central zone, is a transverse Mercator projection of the North American Datum of 1983 having a central meridian 92 degrees — 30 minutes west of Greenwich, on which meridian the scale is set at one part in fifteen thousand too small. The origin of coordinates is at the intersection of the meridian 92 degrees — 30 minutes west of Greenwich and the parallel of 35 degrees — 50 minutes north latitude. This origin is given the coordinates: $x = 500,000$ meters and $y = 0$ meters;

(3) The Missouri coordinate system 1983, west zone, is a transverse Mercator projection of the North American Datum of 1983 having a central meridian 94 degrees — 30 minutes west of Greenwich, on which meridian the scale is set at one part in seventeen thousand too small. The origin of coordinates is at the intersection of the meridian 94 degrees — 30 minutes west of Greenwich and the parallel 36 degrees — 10 minutes north latitude. This origin is given the coordinates: $x = 850,000$ meters and $y = 0$ meters.

3. The position of either Missouri coordinate system shall be as marked on the ground by horizontal control stations established in conformity with the standards adopted by the department of [natural resources] **agriculture** for first-order and second-order work, whose geodetic positions have been rigidly adjusted on the appropriate datum and whose coordinates

have been computed on the system defined in this section. Any such station may be used for establishing a survey connection with the Missouri coordinate system.

60.510. POWERS AND DUTIES OF DEPARTMENT. — The functions, duties and responsibilities of the department of [natural resources] **agriculture** shall be as follows:

(1) To restore, maintain, and preserve the land survey monuments, section corners, and quarter section corners established by the United States public land survey within Missouri, together with all pertinent field notes, plats and documents; and also to restore, establish, maintain, and preserve Missouri state and county boundary markers and other boundary markers considered by the department of [natural resources] **agriculture** to be of importance, or otherwise established by law;

(2) To design and cause to be placed at established public land survey corner sites, where practical, substantial monuments permanently indicating, with words and figures, the exact location involved, but if such monuments cannot be placed at the exact corner point, then witness corners of similar design shall be placed as near by as possible, with words and figures indicating the bearing and distance to the true corner;

(3) To establish, maintain, and provide safe storage facilities for a comprehensive system of recordation of information respecting all monuments established by the United States public land survey within this state, and such records as may be pertinent to the department of [natural resources] **agriculture's** establishment or maintenance of other land corners, Missouri state coordinate system stations and accessories, and survey monuments in general;

(4) To provide the framework for all geodetic positioning activities in the state. The foundational elements include latitude, longitude, and elevation which contribute to informed decision making and impact on a wide range of important activities including mapping and geographic information systems, flood risk determination, transportation, land use and ecosystem management and use of the Missouri state coordinate system, as established by sections 60.401 to 60.491;

(5) To collect and preserve information obtained from surveys made by those authorized to establish land monuments or land boundaries, and to assist in the proper recording of the same by the duly constituted county officials, or otherwise;

(6) To furnish, upon reasonable request and tender of the required fees therefor, certified copies of records created or maintained by the department of [natural resources] **agriculture** which, when certified by the state land surveyor or a designated assistant, shall be admissible in evidence in any court in this state, as the original record; and

(7) To prescribe, and disseminate to those engaged in the business of land surveying, regulations designed to assist in uniform and professional surveying methods and standards in this state.

60.530. SURVEYOR, DUTIES. — The state land surveyor shall, under guidance of the department of [natural resources] **agriculture** and with the recommendation of the land survey commission, carry out the routine functions and duties of the department of [natural resources] **agriculture**, as prescribed in sections 60.510 to 60.620 and section 60.670. He or she shall, whenever practical, cause all land surveys, except geodetic surveys, to be executed, under his or her direction by the registered county surveyor or a local registered land surveyor when no registered county surveyor exists. He or she shall perform such other work and acts as shall, in the judgment of the department of [natural resources] **agriculture** and with the recommendation of the land survey commission, be necessary and proper to carry out the objectives of sections 60.510 to 60.620 and section 60.670 and, within the limits of appropriations made therefor and subject to the approval of the department of [natural resources and the state merit system] **agriculture**, employ and fix the compensation of such additional employees as may be necessary to carry out the provisions of sections 60.510 to 60.620 and section 60.670.

60.540. DEPARTMENT MAY ACQUIRE PROPERTY, HOW. — The department of [natural resources] **agriculture** may acquire, in the name of the state of Missouri, lands or interests therein, where necessary, to establish permanent control stations; and may lease or purchase or acquire by negotiation or condemnation, where necessary, land for the establishment of an office of the land survey program of the department of [natural resources] **agriculture**. If condemnation is necessary, the attorney general shall bring the suit in the name of the state in the same manner as authorized by law for the acquisition of lands by the state transportation department.

60.550. OWNERSHIP OF MARKERS IN DEPARTMENT, UNAUTHORIZED TAMPERING PROHIBITED, DUTY TO PROSECUTE. — The custody and ownership of the original United States public land survey corners and accessories, including all restoration and replacements thereof and all accessories, belonging to the state of Missouri is hereby transferred to the department of [natural resources] **agriculture**. The department of [natural resources] **agriculture** shall see that the markers are maintained, and the alteration, removal, disfiguration or destruction of any of the corners or accessories, without specific permission of the department of [natural resources] **agriculture**, is an act of destruction of state property and is a misdemeanor. Any person convicted thereof shall be punished as provided by law. Each of the several prosecuting attorneys is specifically directed to prosecute for the violation of this section for any act of destruction which occurs in his county.

60.560. ATTORNEY GENERAL TO ADVISE COMMISSION OR DEPARTMENT. — Upon their request, the state attorney general shall advise the land survey commission or the department of [natural resources] **agriculture** or the state land surveyor with respect to any legal matter, and shall represent the land survey commission or department of [natural resources] **agriculture** in any proceeding in any court of the state in which the land survey commission or land survey program shall be a party.

60.570. HEADQUARTERS, WHERE LOCATED — LANDSURVEY BUILDING, NAME OF. —

- 1.** The permanent headquarters of the land survey program shall be at or near to the principal office of the Missouri state geological survey. Until such time as other headquarters can be obtained by the land survey program, the state geologist shall [assign] **provide** such space in the state geological survey building as may be available. **No department shall charge any fee over or above the amount paid to the office of administration for utilization of the building.** The land survey program may also establish and maintain regional offices in the metropolitan areas of the state for the storage and distribution of local survey record information.
- 2. The building that occupies the permanent headquarters of the land survey program may be renamed and referred to as the "Robert E. Myers Building".**

60.580. RIGHT OF ENTRY, IMMUNE TO TRESPASS ARREST. — The state land surveyor or any and all employees of the department of [natural resources] **agriculture** have the right to enter upon private property for the purpose of making surveys, or for searching for, locating, relocating, or re-monumenting land monuments, leveling stations, or section corners. Should any of these persons necessarily damage property of the owner in making the surveys or searches or re-monumentations, the department of [natural resources] **agriculture** may make reasonable payment for the damage from funds available for that purpose. However, department of [natural resources] **agriculture** employees are personally liable for any damage caused by their wantonness, willfulness or negligence. All department of [natural resources] **agriculture** employees are immune from arrest for trespass in performing their legal duties as stated in sections 60.510 to 60.620 and section 60.670.

60.590. RECORDS TO BE FURNISHED DEPARTMENT — DEPARTMENT TO FURNISH RECORDS AT COST. — 1. On request of the department of [natural resources] **agriculture** or the state land surveyor, all city and county recorders of deeds, together with all departments, boards or agencies of state government, county, or city government, shall furnish to the department of [natural resources] **agriculture** or the state land surveyor certified copies of desired records which are in their custody. This service shall be free of cost when possible; otherwise, it shall be at actual cost of reproduction of the records. On the same basis of cost, the department of [natural resources] **agriculture** shall furnish records within its custody to other agencies or departments of state, county or city, certifying them.

2. The department of [natural resources] **agriculture** may produce, reproduce and sell maps, plats, reports, studies, and records, and the commission shall recommend to the department of [natural resources] **agriculture** the charges therefor. All income received shall be promptly deposited in the state treasury to the credit of the department of [natural resources document] **agriculture land survey revolving services fund**.

60.595. DEPARTMENT REVOLVING SERVICES FUND, PURPOSE — UNEXPENDED BALANCES. — 1. The "Department of [Natural Resources] **Agriculture Land Survey Revolving Services Fund**" is hereby created. All funds received by the department of [natural resources] **agriculture** from the delivery of services and the sale or resale of maps, plats, reports, studies, records and other publications and documents and surveying information, on paper or in electronic format, by the department shall be credited to the fund. The director of the department shall administer the fund. The state treasurer is the custodian of the fund and shall approve disbursements from the fund requested by the director of the department. When appropriated, moneys in the fund shall be used to purchase goods, equipment, hardware and software, maintenance and licenses, software and database development and maintenance, personal services, and other services that will ultimately be used to provide copies of information maintained or provided by the land survey program, reprint maps, publications or other documents requested by governmental agencies or members of the general public; to publish the maps, publications or other documents or to purchase maps, publications or other documents for resale; and to pay shipping charges, [laboratory services, core library fees, workshop fees, conference fees, interdivisional cooperative agreements,] but for no other purpose.

2. **Effective August 28, 2013, a transfer of monies between the department of natural resources revolving services fund, created in section 640.065, and the department of agriculture land survey revolving services fund shall be made such that only the balance related to the reproduction and sale of land survey documents is transferred to the department of agriculture land survey revolving services fund.**

3. An unencumbered balance in the fund at the end of the fiscal year not exceeding one million dollars is exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

[3.] 4. The department of [natural resources] **agriculture** shall report all income to and expenditures from such fund on a quarterly basis to the house budget committee and the senate appropriations committee.

60.600. REGISTERED SURVEYORS TO BE USED — PRIVATE EMPLOYMENT PROHIBITED. — Every employee of the department of [natural resources] **agriculture** who is engaged in work required by law to be done by a registered land surveyor will be so registered. No employee of the department of [natural resources] **agriculture** shall engage in private land surveying or consultation while employed by the department of [natural resources] **agriculture**.

60.610. DEPARTMENT MAY CONTRACT. — Whenever the department of [natural resources] **agriculture** deems it expedient, and when funds appropriated permit, the department of [natural resources] **agriculture** may enter into any contract with agencies of the United States,

with agencies of other states, or with private persons, registered land surveyors or professional engineers, in order to plan and execute desired land surveys or geodetic surveys, or to plan and execute other projects which are within the scope and purpose of sections 60.510 to 60.620 and section 60.670.

60.620. LAND SURVEY COMMISSION ESTABLISHED — APPOINTMENT — TERMS — QUALIFICATIONS — CHAIRMAN, SELECTION — MEETINGS, QUORUM — EXPENSES — DUTIES — ANNUAL REPORT, CONTENT TO BE PUBLIC. —

1. There is hereby created the "Land Survey Commission", within the department of [natural resources] **agriculture**. The commission shall consist of seven members, six of whom shall be appointed by the governor. Members shall reside in this state. Members of the commission shall hold office for terms of three years, but of the original appointments, two members shall serve for one year, two members shall serve for two years, and two members shall serve for three years. Members may serve only three consecutive terms on the commission.

2. The land survey commission shall consist of the following persons:

(1) Four members who shall be registered land surveyors, one of which shall be a county surveyor;

(2) One member who shall represent the real estate or land title industry;

(3) One member who shall represent the public and have an interest in and knowledge of land surveying; and

(4) The director of the department of [natural resources] **agriculture** or his or her designee.

The members in subdivisions (1) to (3) of this subsection shall be appointed by the governor with advice and consent of the senate and each shall serve until his or her successor is duly appointed.

3. The land survey commission shall elect a chairman annually. The commission shall meet semiannually and at other such times as called by the chairman of the commission and shall have a quorum when at least four members are present.

4. The land survey commission members shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

5. The land survey commission shall provide the director of the department of [natural resources] **agriculture** and the state land surveyor with recommendations on the operation and the planning and prioritization of the land survey program and the design of regulations needed to carry out the functions, duties, and responsibilities of the department of [natural resources] **agriculture** in sections 60.510 to 60.620 and section 60.670.

6. The land survey commission shall recommend to the department of [natural resources] **agriculture**:

(1) A person to be selected and appointed state land surveyor, who shall be the chief administrative officer of the land survey program. The state land surveyor shall be selected [under the state merit system] on the basis of professional experience and registration;

(2) Prioritization and execution of projects which are within the scope and purpose of sections 60.510 to 60.620 and section 60.670;

(3) Prioritization and selection of public land survey corner monuments to be reestablished through the county cooperative contracts in accordance with sections 8.285 to 8.291; and

(4) Approval of all other contracts for the planning and execution of projects which are within the scope and purpose of sections 60.510 to 60.620 and section 60.670 and in accordance with sections 8.285 to 8.291.

7. The commission shall, at least annually, prepare a report, which shall be available to the general public, of the review by the commission of the land survey program, stating its findings, conclusions, and recommendations to the director.

8. By December 1, 2013, the commission shall provide a report to the department of [natural resources] **agriculture** and general assembly that recommends the appropriate administrative or overhead cost rate that will be charged to the program, where such cost rate

shall include all indirect services provided by the [division of geology and land survey,] department of [natural resources,] **agriculture** and office of administration.

60.653. RECORDER OF DEEDS, DUTIES — COPIES OF PLATS TO BE EVIDENCE WHEN CERTIFIED. — 1. It shall be the duty of the recorder of deeds to maintain a copy of all survey plats delivered to his custody in an appropriate file medium capable of reproduction.

2. Survey plats shall be placed in the plat books or such other record books as have been previously established.

3. A duplicate of the recorded survey plat shall be provided to the land survey [division] **program** of the department of [natural resources] **agriculture** at an amount not to exceed the actual cost of the duplicate.

4. The recorder shall maintain an index of all survey plats, subdivision plats, and condominium plats by section, township, and range and by subdivision or condominium name.

5. Copies of survey plats shall be evidence in all courts of justice when properly certified under the hand and official seal of the recorder.

60.670. DIGITAL CADASTRAL PARCEL MAPPING, MINIMUM STANDARDS, RULEMAKING AUTHORITY. — 1. As used in this section, the following terms shall mean:

(1) "Cadastral parcel mapping", an accurately delineated identification of all real property parcels. The cadastral map is based upon the USPLSS. For cadastral parcel maps the position of the legal framework is derived from the USPLSS, existing tax maps, and tax database legal descriptions, recorded deeds, recorded surveys, and recorded subdivision plats;

(2) "Digital cadastral parcel mapping", encompasses the concepts of automated mapping, graphic display and output, data analysis, and database management as pertains to cadastral parcel mapping. Digital cadastral parcel mapping systems consist of hardware, software, data, people, organizations, and institutional arrangements for collecting, storing, analyzing, and disseminating information about the location and areas of parcels and the USPLSS;

(3) "USPLSS" or "United States Public Land Survey System", a survey executed under the authority of the United States government as recorded on the official plats and field notes of the United States public land survey maintained by the land survey program of the department of [natural resources] **agriculture**;

(4) "Tax map", a document or map for taxation purposes representing the location, dimensions, and other relevant information pertaining to a parcel of land subject to property taxes.

2. The office of the state land surveyor established within the department of [natural resources] **agriculture** shall promulgate rules and regulations establishing minimum standards for digital cadastral parcel mapping. 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, 2010, shall be invalid and void.

3. Any map designed and used to reflect legal property descriptions or boundaries for use in a digital cadastral mapping system shall comply with the rules promulgated under this section, unless the party requesting the map specifies otherwise in writing, the map was designed and in use prior to the promulgation of the rules, or the parties requesting and designing the map have already agreed to the terms of their contract on the effective date of the rules promulgation.

236.410. COUNCIL ESTABLISHED — MEMBERS, TERMS, QUALIFICATIONS, OFFICERS — MEETINGS — QUORUM — COMPENSATION — REPORT. — 1. There is hereby created a "Dam

and Reservoir Safety Council", whose domicile for the purposes of sections 236.400 to 236.500 shall be the department of natural resources of the state of Missouri, for the regulation of dam and reservoir safety. The council shall consist of seven members, no more than four of whom shall be members of the same political party, appointed by the governor with the advice and consent of the senate.

2. The members of the council shall have a background of academic training or professional experience directly related to the design of dams and reservoirs. At least two members of the council shall be professional engineers registered in the state of Missouri, one of whom shall represent the general public; at least one member shall be an engineering geologist; at least one member, in addition to the professional engineer, shall be a representative of the general public; two members shall be from industry, one of whom shall be earthmoving contractors; and one member shall be the owner of a dam or reservoir. **Of the seven members, three shall be from each of the three United States congressional districts in this state with the highest number of dams.** The members shall serve for a term of two years; except, of the first appointments three shall be appointed for one year. The governor shall fill any vacancy on the council and may remove any appointed member for cause. The council shall annually elect a chairman and vice chairman from among its members. The council shall meet regularly but not less than quarterly. Special meetings and hearings may be called upon delivery of written notice to each member of the council signed by the director, the chief engineer, the council chairman or four of the council members. Four members of the council shall constitute a quorum to transact the business of the council. The council shall decide all questions by a majority vote of those present and constituting a quorum. The members of this council shall not receive any compensations other than for actual travel and subsistence when acting officially as members of the council. **The council shall prepare and present an annual report to the general assembly by December thirty-first of each year.**

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. **The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. All interest and moneys earned on such investments shall be credited to the fund.** 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.

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.

253.180. DOMESTIC ANIMALS PROHIBITED FROM RUNNING AT LARGE. — No person shall allow any domestic or other animal under his control or ownership to range within any state park at any time, **unless as authorized under section 253.185.**

253.185. DOMESTIC ANIMALS, HOW CONTROLLED — PROHIBITED IN BUILDINGS, EXCEPTION — DOG PARK, DESIGNATED AREA. — **1. Except for the provisions of subsection 2 of this section,** domestic household animals shall not be allowed in any state park unless restrained by a leash not longer than ten feet held by some person or firmly affixed to some stationary object so as to prevent the animal from ranging at large. No domestic household or other animal shall be allowed inside any state park building under the control of either the department of natural resources or a concessionaire licensed by the department of natural resources unless permission is granted by the department of natural resources.

2. The department of natural resources may designate a specified area within any state park to serve as a dog park or an off-leash area for domestic household animals.

256.117. FUNDING FOR OPERATION OF MAP REPOSITORY FROM DOCUMENT SERVICES FUND — MONEY FROM SALES OF MAPS OR PRODUCTS DEPOSITED IN FUND. — **1.** Funds from department of natural resources [document] **revolving** services fund created in section [60.595] **640.065** may be used to purchase, acquire and copy maps described in sections 256.112 to 256.117, as well as all services necessary for the operation of the map repository.

2. All funds from the sale of maps and products from the mine map repository shall be deposited in the department of natural resources [document] **revolving** services fund created in section [60.595] **640.065.**

256.438. FUND CREATED, USE OF MONEYS. — **1.** There is hereby established in the state treasury a fund to be known as the "Multi-Purpose Water Resource Program Renewable Water Program Fund", which shall consist of all money deposited in such fund from whatever source, whether public or private. 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 other moneys earned on such investments shall be credited to the fund. Any unexpended balance in such fund at the end of any appropriation period shall not be transferred to the general revenue fund and, accordingly, shall be exempt from the provisions of section 33.080 relating to the transfer of funds to the general revenue funds of the state by the state treasurer.

2. Upon appropriation, the department of natural resources shall use money in the fund created by this section for the purposes of carrying out the provisions of sections 256.435 to 256.445, including, but not limited to, the provision of grants or other financial assistance, and, if such limitations or conditions are imposed, only upon such other limitations or conditions specified in the instrument that appropriates, grants, bequeaths, or otherwise authorizes the transmission of money to the fund.

258.010. COMMITTEES, COUNCILS AND BOARDS AUTHORIZED — STAFFING BY DEPARTMENT. — **1.** [There shall be a "State Interagency Council for Outdoor Recreation" composed of the following state agencies:

- (1) Department of agriculture;
- (2) Office of administration;
- (3) Department of social services;
- (4) Department of economic development;
- (5) Department of conservation;
- (6) Department of natural resources;

(7) Department of transportation;

(8) University of Missouri] **The department of natural resources shall be responsible for convening any committee, council, or board the department deems necessary or advisable in order for the department to perform any functions or duties related to state parks or historic sites, recreational trails, outdoor recreation, any federal grant program pursuant to chapters 253 and 258, any federal land and water conservation fund act, 28 U.S.C. 206, or any other law.**

2. The department of natural resources shall provide all staff support and office space for [the council] **any such bodies.**

258.060. DUTIES AND FUNCTIONS OF DEPARTMENT. — The [state inter-agency council for outdoor recreation] **department of natural resources** shall be:

(1) The official state agency for liaison with the federal bureau of outdoor recreation;

(2) The official state agency to receive and disburse federal funds available to this state for overall outdoor recreation planning **and any recreational trails planning or programs;**

(3) The official state agency to receive and allocate to the appropriate agency, or political subdivision, federal funds available for outdoor recreation **or recreational trails** programs; and

(4) Shall provide a forum for consideration of outdoor recreation problems affecting member agencies and as an advisory and planning agency for overall outdoor recreational programs. The [council] **department** may provide information and advisory services for any political subdivision requesting its services.

258.070. COMPENSATION, EXPENSES OF MEMBER AGENCIES' REPRESENTATIVES. — Representatives of [the member agencies] **any committee, council, or board convened by the department pursuant to section 258.010** shall not receive any additional compensation for their services [as representatives on the council] , and all expenses of **any** agency representatives shall be paid by their respective agency.

258.080. FUND CREATED — MONEYS APPROPRIATED, FOR WHAT PURPOSES — FUNDS NOT TO REVERT. — 1. There is hereby created in the state treasury for the use of the [state inter-agency council for outdoor recreation] **department of natural resources** a fund to be known as "The Inter-Agency Council Fund". All federal moneys received by the state of Missouri from the Land and Water Conservation Fund Act of 1965, Public Law 88-578, shall be deposited in the fund.

2. Moneys deposited in the fund shall, upon appropriation by the general assembly to the [state inter-agency council for outdoor recreation] **department**, be received and expended or allocated by the [state inter-agency council] **department** for outdoor recreation for outdoor recreation planning, acquisition and development and for no other purposes; provided, however, that not less than fifty percent of the moneys appropriated shall be allocated by [said council] **the department** to political subdivisions of the state of Missouri, none of which moneys so allocated shall be expended for the improvement or operation of projects under the supervision or control of any state agency.

3. Any unexpended balance in [the inter-agency council] **such** fund at the end of any appropriation period shall not be transferred to the general revenue fund of the state treasury and, accordingly, shall be exempt from the provisions of section 33.080 relating to transfer of funds to the general revenue funds of the state by the state treasurer.

260.200. DEFINITIONS. — 1. The following words and phrases when used in sections 260.200 to 260.345 shall mean:

(1) "Alkaline-manganese battery" or "alkaline battery", a battery having a manganese dioxide positive electrode, a zinc negative electrode, an alkaline electrolyte, including alkaline-

manganese button cell batteries intended for use in watches, calculators, and other electronic products, and larger-sized alkaline-manganese batteries in general household use;

(2) **"Applicant", a person or persons seeking or holding a facility permit;**

(3) **"Bioreactor", a municipal solid waste disposal area or portion of a municipal solid waste disposal area where the controlled addition of liquid waste or water accelerates both the decomposition of waste and landfill gas generation;**

[(3)] (4) **"Button cell battery" or "button cell", any small alkaline-manganese or mercuric-oxide battery having the size and shape of a button;**

[(4)] (5) **"City", any incorporated city, town, or village;**

[(5)] (6) **"Clean fill", uncontaminated soil, rock, sand, gravel, concrete, asphaltic concrete, cinderblocks, brick, minimal amounts of wood and metal, and inert solids as approved by rule or policy of the department for fill, reclamation or other beneficial use;**

[(6)] (7) **"Closure", the permanent cessation of active disposal operations, abandonment of the disposal area, revocation of the permit or filling with waste of all areas and volumes specified in the permit and preparing the area for long-term care;**

[(7)] (8) **"Closure plan", plans, designs and relevant data which specify the methods and schedule by which the operator will complete or cease disposal operations, prepare the area for long-term care, and make the area suitable for other uses, to achieve the purposes of sections 260.200 to 260.345 and the regulations promulgated thereunder;**

[(8)] (9) **"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;**

[(9)] (10) **"Construction and demolition waste", waste materials from the construction and demolition of residential, industrial, or commercial structures, but shall not include materials defined as clean fill under this section;**

[(10)] (11) **"Demolition landfill", a solid waste disposal area used for the controlled disposal of demolition wastes, construction materials, brush, wood wastes, soil, rock, concrete and inert solids insoluble in water;**

[(11)] (12) **"Department", the department of natural resources;**

[(12)] (13) **"Director", the director of the department of natural resources;**

[(13)] (14) **"Disclosure statement", a sworn statement or affirmation, in such form as may be required by the director of the department of natural resources, which includes:**

(a) **The full names and business address of key personnel;**

(b) **The full name and business address of any entity, other than a natural person, that collects, transfers, processes, treats, stores, or disposes of solid waste in which all key personnel holds an equity interest of seven percent or more;**

(c) **A description of the business experience of all key personnel listed in the disclosure statement;**

(d) **For the five year period ending on the date the sworn disclosure statement or affirmation is signed by key personnel:**

a. **A listing organized by issuing federal, state, or county or county equivalent regulatory body of all environmental permits or licenses for the collection, transfer, treatment, processing, storage, or disposal of solid waste issued to or held by any key personnel;**

b. **A listing and explanation of notices of violation which shall by rule be defined, prosecutions, or other administrative enforcement actions resulting in an adjudication or conviction;**

c. A listing of license or permit suspensions, revocations, or denials issued by any state, the federal government or a county or county equivalent, which are pending or have concluded with a finding of violation or entry of a consent agreement regarding an allegation of civil or criminal violation of law, regulation or requirement relating to the collection, transfer, treatment, processing, storage, or disposal of solid waste or violation of the environmental statutes of other states or federal statutes;

d. An itemized list of all felony convictions under the laws of the state of Missouri or the equivalent thereof under the laws of any other jurisdiction; and a listing of any findings of guilt for any crimes or criminal acts an element of which involves restraint of trade, price-fixing, intimidation of the customers of another person or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated pursuant to this chapter or similar laws of other states or the federal government including, but not limited to, racketeering or violation of antitrust laws of any key personnel;

(15) "District", a solid waste management district established under section 260.305;

[(14)] (16) "Financial assurance instrument", an instrument or instruments, including, but not limited to, cash or surety bond, letters of credit, corporate guarantee or secured trust fund, submitted by the applicant to ensure proper closure and postclosure care and corrective action of a solid waste disposal area in the event that the operator fails to correctly perform closure and postclosure care and corrective action requirements, except that the financial test for the corporate guarantee shall not exceed one and one-half times the estimated cost of closure and postclosure. The form and content of the financial assurance instrument shall meet or exceed the requirements of the department. The instrument shall be reviewed and approved or disapproved by the attorney general;

[(15)] (17) "Flood area", any area inundated by the one hundred year flood event, or the flood event with a one percent chance of occurring in any given year;

[(16)] (18) "Household consumer", an individual who generates used motor oil through the maintenance of the individual's personal motor vehicle, vessel, airplane, or other machinery powered by an internal combustion engine;

[(17)] (19) "Household consumer used motor oil collection center", any site or facility that accepts or aggregates and stores used motor oil collected only from household consumers or farmers who generate an average of twenty-five gallons per month or less of used motor oil in a calendar year. This section shall not preclude a commercial generator from operating a household consumer used motor oil collection center;

[(18)] (20) "Household consumer used motor oil collection system", any used motor oil collection center at publicly owned facilities or private locations, any curbside collection of household consumer used motor oil, or any other household consumer used motor oil collection program determined by the department to further the purposes of sections 260.200 to 260.345;

[(19)] (21) "Infectious waste", waste in quantities and characteristics as determined by the department by rule, including isolation wastes, cultures and stocks of etiologic agents, blood and blood products, pathological wastes, other wastes from surgery and autopsy, contaminated laboratory wastes, sharps, dialysis unit wastes, discarded biologicals known or suspected to be infectious; provided, however, that infectious waste does not mean waste treated to department specifications;

(22) "Key personnel", the applicant itself and any person employed by the applicant in a managerial capacity, or empowered to make discretionary decisions with respect to the solid waste operations of the applicant in Missouri, but shall not include employees exclusively engaged in the physical or mechanical collection, transfer, transportation, treatment, processing, storage, or disposal of solid waste and such other employees as the director of the department of natural resources may designate by regulation. If the applicant has not previously conducted solid waste operations in Missouri, the term also includes any officer, director, partner of the applicant, or any holder of seven percent or

more of the equity or debt of the applicant. If any holder of seven percent or more of the equity or debt of the applicant or of any key personnel is not a natural person, the term includes all key personnel of that entity, provided that where such entity is a chartered lending institution or a reporting company under the federal Securities Exchange Act of 1934, the term does not include key personnel of such entity. Provided further that the term means the chief executive officer of any agency of the United States or of any agency or political subdivision of the state of Missouri, and all key personnel of any person, other than a natural person, that operates a landfill or other facility for the collection, transfer, treatment, processing, storage, or disposal of nonhazardous solid waste under contract with or for one of those governmental entities;

[(20)] (23) "Lead-acid battery", a battery designed to contain lead and sulfuric acid with a nominal voltage of at least six volts and of the type intended for use in motor vehicles and watercraft;

[(21)] (24) "Major appliance", clothes washers and dryers, water heaters, trash compactors, dishwashers, conventional ovens, ranges, stoves, woodstoves, air conditioners, refrigerators and freezers;

[(22)] (25) "Mercuric-oxide battery" or "mercury battery", a battery having a mercuric-oxide positive electrode, a zinc negative electrode, and an alkaline electrolyte, including mercuric-oxide button cell batteries generally intended for use in hearing aids and larger size mercuric-oxide batteries used primarily in medical equipment;

[(23)] (26) "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;

[(24)] (27) "Motor oil", any oil intended for use in a motor vehicle, as defined in section 301.010, train, vessel, airplane, heavy equipment, or other machinery powered by an internal combustion engine;

[(25)] (28) "Motor vehicle", as defined in section 301.010;

[(26)] (29) "Operator" and "permittee", anyone so designated, and shall include cities, counties, other political subdivisions, authority, state agency or institution, or federal agency or institution;

[(27)] (30) "Permit modification", any permit issued by the department which alters or modifies the provisions of an existing permit previously issued by the department;

[(28)] (31) "Person", any individual, partnership, **limited liability company**, corporation, association, **trust**, institution, city, county, other political subdivision, authority, state agency or institution, or federal agency or institution, **or any other legal entity**;

[(29)] (32) "Plasma arc technology", a process that converts electrical energy into thermal energy. This electric arc is created when an ionized gas transfers electric power between two or more electrodes;

[(30)] (33) "Postclosure plan", plans, designs and relevant data which specify the methods and schedule by which the operator shall perform necessary monitoring and care for the area after closure to achieve the purposes of sections 260.200 to 260.345 and the regulations promulgated thereunder;

[(31)] (34) "Recovered materials", those materials which have been diverted or removed from the solid waste stream for sale, use, reuse or recycling, whether or not they require subsequent separation and processing;

[(32)] (35) "Recycled content", the proportion of fiber in a newspaper which is derived from postconsumer waste;

[(33)] (36) "Recycling", the separation and reuse of materials which might otherwise be disposed of as solid waste;

[(34)] (37) "Resource recovery", a process by which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the department and pursuant to department standards, for reuse or remanufacture;

[(35)] (38) "Resource recovery facility", a facility in which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the department and pursuant to department standards, for reuse or remanufacture;

[(36)] (39) "Sanitary landfill", a solid waste disposal area which accepts commercial and residential solid waste;

[(37)] (40) "Scrap tire", a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect;

[(38)] (41) "Scrap tire collection center", a site where scrap tires are collected prior to being offered for recycling or processing and where fewer than five hundred tires are kept on site on any given day;

[(39)] (42) "Scrap tire end-user facility", a site where scrap tires are used as a fuel or fuel supplement or converted into a useable product. Baled or compressed tires used in structures, or used at recreational facilities, or used for flood or erosion control shall be considered an end use;

[(40)] (43) "Scrap tire generator", a person who sells tires at retail or any other person, firm, corporation, or government entity that generates scrap tires;

[(41)] (44) "Scrap tire processing facility", a site where tires are reduced in volume by shredding, cutting, or chipping or otherwise altered to facilitate recycling, resource recovery, or disposal;

[(42)] (45) "Scrap tire site", a site at which five hundred or more scrap tires are accumulated, but not including a site owned or operated by a scrap tire end-user that burns scrap tires for the generation of energy or converts scrap tires to a useful product;

[(43)] (46) "Solid waste", garbage, refuse and other discarded materials including, but not limited to, solid and semisolid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities, but does not include hazardous waste as defined in sections 260.360 to 260.432, recovered materials, overburden, rock, tailings, matte, slag or other waste material resulting from mining, milling or smelting;

[(44)] (47) "Solid waste disposal area", any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing, recreational, or governmental operations;

[(45)] (48) "Solid waste fee", a fee imposed pursuant to sections 260.200 to 260.345 and may be:

(a) A solid waste collection fee imposed at the point of waste collection; or

(b) A solid waste disposal fee imposed at the disposal site;

[(46)] (49) "Solid waste management area", a solid waste disposal area which also includes one or more of the functions contained in the definitions of recycling, resource recovery facility, waste tire collection center, waste tire processing facility, waste tire site or solid waste processing facility, excluding incineration;

[(47)] (50) "Solid waste management system", the entire process of managing solid waste in a manner which minimizes the generation and subsequent disposal of solid waste, including waste reduction, source separation, collection, storage, transportation, recycling, resource recovery, volume minimization, processing, market development, and disposal of solid wastes;

[(48)] (51) "Solid waste processing facility", any facility where solid wastes are salvaged and processed, including:

(a) A transfer station; or

(b) An incinerator which operates with or without energy recovery but excluding waste tire end-user facilities; or

(c) A material recovery facility which operates with or without composting;

(d) A plasma arc technology facility;

[(49)] (52) "Solid waste technician", an individual who has successfully completed training in the practical aspects of the design, operation and maintenance of a permitted solid waste processing facility or solid waste disposal area in accordance with sections 260.200 to 260.345;

[(50)] (53) "Tire", a continuous solid or pneumatic rubber covering encircling the wheel of any self-propelled vehicle not operated exclusively upon tracks, or a trailer as defined in chapter 301, except farm tractors and farm implements owned and operated by a family farm or family farm corporation as defined in section 350.010;

[(51)] (54) "Used motor oil", any motor oil which, as a result of use, becomes unsuitable for its original purpose due to loss of original properties or the presence of impurities, but used motor oil shall not include ethylene glycol, oils used for solvent purposes, oil filters that have been drained of free flowing used oil, oily waste, oil recovered from oil tank cleaning operations, oil spilled to land or water, or industrial nonlube oils such as hydraulic oils, transmission oils, quenching oils, and transformer oils;

[(52)] (55) "Utility waste landfill", a solid waste disposal area used for fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

[(53)] (56) "Yard waste", leaves, grass clippings, yard and garden vegetation and Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.

2. For the purposes of this section and sections 260.270 to 260.279 and any rules in place as of August 28, 2005, or promulgated under said sections, the term "scrap" shall be used synonymously with and in place of waste, as it applies only to scrap tires.

260.205. PERMIT REQUIRED TO OPERATE FACILITY, AND CONSTRUCTION PERMIT TO CONSTRUCT FACILITY, REQUIREMENTS, EXCEPTIONS, FEES — PLANS TO BE SUBMITTED — PERMITS REVOKED OR SUSPENDED, WHEN — DISCLOSURE STATEMENT, REQUIREMENTS. —

1. It shall be unlawful for any person to operate a solid waste processing facility or solid waste disposal area of a solid waste management system without first obtaining an operating permit from the department. It shall be unlawful for any person to construct a solid waste processing facility or solid waste disposal area without first obtaining a construction permit from the department pursuant to this section. A current authorization to operate issued by the department pursuant to sections 260.200 to 260.345 shall be considered to be a permit to operate for purposes of this section for all solid waste disposal areas and processing facilities existing on August 28, 1995. A permit shall not be issued for a sanitary landfill to be located in a flood area, as determined by the department, where flood waters are likely to significantly erode final cover. A permit shall not be required to operate a waste stabilization lagoon, settling pond or other water treatment facility which has a valid permit from the Missouri clean water commission even though the facility may receive solid or semisolid waste materials.

2. No person or operator may apply for or obtain a permit to construct a solid waste disposal area unless the person has requested the department to conduct a preliminary site investigation and obtained preliminary approval from the department. The department shall, within sixty days of such request, conduct a preliminary investigation and approve or disapprove the site.

3. All proposed solid waste disposal areas for which a preliminary site investigation request pursuant to subsection 2 of this section is received by the department on or after August 28, 1999, shall be subject to a public involvement activity as part of the permit application process. The activity shall consist of the following:

(1) The applicant shall notify the public of the preliminary site investigation approval within thirty days after the receipt of such approval. Such public notification shall be by certified mail to the governing body of the county or city in which the proposed disposal area is to be located and by certified mail to the solid waste management district in which the proposed disposal area is to be located;

(2) Within ninety days after the preliminary site investigation approval, the department shall conduct a public awareness session in the county in which the proposed disposal area is to be located. The department shall provide public notice of such session by both printed and broadcast media at least thirty days prior to such session. Printed notification shall include

publication in at least one newspaper having general circulation within the county in which the proposed disposal area is to be located. Broadcast notification shall include public service announcements on radio stations that have broadcast coverage within the county in which the proposed disposal area is to be located. The intent of such public awareness session shall be to provide general information to interested citizens on the design and operation of solid waste disposal areas;

(3) At least sixty days prior to the submission to the department of a report on the results of a detailed site investigation pursuant to subsection 4 of this section, the applicant shall conduct a community involvement session in the county in which the proposed disposal area is to be located. Department staff shall attend any such session. The applicant shall provide public notice of such session by both printed and broadcast media at least thirty days prior to such session. Printed notification shall include publication in at least one newspaper having general circulation within the county in which the proposed disposal area is to be located. Broadcast notification shall include public service announcements on radio stations that have broadcast coverage within the county in which the proposed disposal area is to be located. Such public notices shall include the addresses of the applicant and the department and information on a public comment period. Such public comment period shall begin on the day of the community involvement session and continue for at least thirty days after such session. The applicant shall respond to all persons submitting comments during the public comment period no more than thirty days after the receipt of such comments;

(4) If a proposed solid waste disposal area is to be located in a county or city that has local planning and zoning requirements, the applicant shall not be required to conduct a community involvement session if the following conditions are met:

(a) The local planning and zoning requirements include a public meeting;

(b) The applicant notifies the department of intent to utilize such meeting in lieu of the community involvement session at least thirty days prior to such meeting;

(c) The requirements of such meeting include providing public notice by printed or broadcast media at least thirty days prior to such meeting;

(d) Such meeting is held at least thirty days prior to the submission to the department of a report on the results of a detailed site investigation pursuant to subsection 4 of this section;

(e) The applicant submits to the department a record of such meeting;

(f) A public comment period begins on the day of such meeting and continues for at least fourteen days after such meeting, and the applicant responds to all persons submitting comments during such public comment period no more than fourteen days after the receipt of such comments.

4. No person may apply for or obtain a permit to construct a solid waste disposal area unless the person has submitted to the department a plan for conducting a detailed surface and subsurface geologic and hydrologic investigation and has obtained geologic and hydrologic site approval from the department. The department shall approve or disapprove the plan within thirty days of receipt. The applicant shall conduct the investigation pursuant to the plan and submit the results to the department. The department shall provide approval or disapproval within sixty days of receipt of the investigation results.

5. (1) Every person desiring to construct a solid waste processing facility or solid waste disposal area shall make application for a permit on forms provided for this purpose by the department. Every applicant shall submit evidence of financial responsibility with the application. Any applicant who relies in part upon a parent corporation for this demonstration shall also submit evidence of financial responsibility for that corporation and any other subsidiary thereof.

(2) Every applicant shall provide a financial assurance instrument or instruments to the department prior to the granting of a construction permit for a solid waste disposal area. The financial assurance instrument or instruments shall be irrevocable, meet all requirements established by the department and shall not be cancelled, revoked, disbursed, released or allowed

to terminate without the approval of the department. After the cessation of active operation of a sanitary landfill, or other solid waste disposal area as designed by the department, neither the guarantor nor the operator shall cancel, revoke or disburse the financial assurance instrument or allow the instrument to terminate until the operator is released from postclosure monitoring and care responsibilities pursuant to section 260.227.

(3) The applicant for a permit to construct a solid waste disposal area shall provide the department with plans, specifications, and such other data as may be necessary to comply with the purpose of sections 260.200 to 260.345. The application shall demonstrate compliance with all applicable local planning and zoning requirements. The department shall make an investigation of the solid waste disposal area and determine whether it complies with the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345. Within twelve consecutive months of the receipt of an application for a construction permit the department shall approve or deny the application. The department shall issue rules and regulations establishing time limits for permit modifications and renewal of a permit for a solid waste disposal area. The time limit shall be consistent with this chapter.

(4) The applicant for a permit to construct a solid waste processing facility shall provide the department with plans, specifications and such other data as may be necessary to comply with the purpose of sections 260.200 to 260.345. Within one hundred eighty days of receipt of the application, the department shall determine whether it complies with the provisions of sections 260.200 to 260.345. Within twelve consecutive months of the receipt of an application for a permit to construct an incinerator as defined in section 260.200 or a material recovery facility as defined in section 260.200, and within six months for permit modifications, the department shall approve or deny the application. Permits issued for solid waste facilities shall be for the anticipated life of the facility.

(5) If the department fails to approve or deny an application for a permit or a permit modification within the time limits specified in subdivisions (3) and (4) of this subsection, the applicant may maintain an action in the circuit court of Cole County or that of the county in which the facility is located or is to be sited. The court shall order the department to show cause why it has not acted on the permit and the court may, upon the presentation of evidence satisfactory to the court, order the department to issue or deny such permit or permit modification. Permits for solid waste disposal areas, whether issued by the department or ordered to be issued by a court, shall be for the anticipated life of the facility.

(6) The applicant for a permit to construct a solid waste processing facility shall pay an application fee of one thousand dollars. Upon completion of the department's evaluation of the application, but before receiving a permit, the applicant shall reimburse the department for all reasonable costs incurred by the department up to a maximum of four thousand dollars. The applicant for a permit to construct a solid waste disposal area shall pay an application fee of two thousand dollars. Upon completion of the department's evaluations of the application, but before receiving a permit, the applicant shall reimburse the department for all reasonable costs incurred by the department up to a maximum of eight thousand dollars. Applicants who withdraw their application before the department completes its evaluation shall be required to reimburse the department for costs incurred in the evaluation. The department shall not collect the fees authorized in this subdivision unless it complies with the time limits established in this section.

(7) When the review reveals that the facility or area does conform with the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345, the department shall approve the application and shall issue a permit for the construction of each solid waste processing facility or solid waste disposal area as set forth in the application and with any permit terms and conditions which the department deems appropriate. In the event that the facility or area fails to meet the rules and regulations adopted pursuant to sections 260.200 to 260.345, the department shall issue a report to the applicant stating the reason for denial of a permit.

6. Plans, designs, and relevant data for the construction of solid waste processing facilities and solid waste disposal areas shall be submitted to the department by a registered professional engineer licensed by the state of Missouri for approval prior to the construction, alteration or operation of such a facility or area.

7. Any person or operator as defined in section 260.200 who intends to obtain a construction permit in a solid waste management district with an approved solid waste management plan shall request a recommendation in support of the application from the executive board created in section 260.315. The executive board shall consider the impact of the proposal on, and the extent to which the proposal conforms to, the approved district solid waste management plan prepared pursuant to section 260.325. The executive board shall act upon the request for a recommendation within sixty days of receipt and shall submit a resolution to the department specifying its position and its recommendation regarding conformity of the application to the solid waste plan. The board's failure to submit a resolution constitutes recommendation of the application. The department may consider the application, regardless of the board's action thereon and may deny the construction permit if the application fails to meet the requirements of sections 260.200 to 260.345, or if the application is inconsistent with the district's solid waste management plan.

8. If the site proposed for a solid waste disposal area is not owned by the applicant, the owner or owners of the site shall acknowledge that an application pursuant to sections 260.200 to 260.345 is to be submitted by signature or signatures thereon. The department shall provide the owner with copies of all communication with the operator, including inspection reports and orders issued pursuant to section 260.230.

9. The department shall not issue a permit for the operation of a solid waste disposal area designed to serve a city with a population of greater than four hundred thousand located in more than one county, if the site is located within one-half mile of an adjoining municipality, without the approval of the governing body of such municipality. The governing body shall conduct a public hearing within fifteen days of notice, shall publicize the hearing in at least one newspaper having general circulation in the municipality, and shall vote to approve or disapprove the land disposal facility within thirty days after the close of the hearing.

10. Upon receipt of an application for a permit to construct a solid waste processing facility or disposal area, the department shall notify the public of such receipt:

(1) By legal notice published in a newspaper of general circulation in the area of the proposed disposal area or processing facility;

(2) By certified mail to the governing body of the county or city in which the proposed disposal area or processing facility is to be located; and

(3) By mail to the last known address of all record owners of contiguous real property or real property located within one thousand feet of the proposed disposal area and, for a proposed processing facility, notice as provided in section 64.875 or section 89.060, whichever is applicable.

(4) If an application for a construction permit meets all statutory and regulatory requirements for issuance, a public hearing on the draft permit shall be held by the department in the county in which the proposed solid waste disposal area is to be located prior to the issuance of the permit. The department shall provide public notice of such hearing by both printed and broadcast media at least thirty days prior to such hearing. Printed notification shall include publication in at least one newspaper having general circulation within the county in which the proposed disposal area is to be located. Broadcast notification shall include public service announcements on radio stations that have broadcast coverage within the county in which the proposed disposal area is to be located.

11. After the issuance of a construction permit for a solid waste disposal area, but prior to the beginning of disposal operations, the owner and the department shall execute an easement to allow the department, its agents or its contractors to enter the premises to complete work specified in the closure plan, or to monitor or maintain the site or to take remedial action during

the postclosure period. After issuance of a construction permit for a solid waste disposal area, but prior to the beginning of disposal operations, the owner shall submit evidence that he or she has recorded, in the office of the recorder of deeds in the county where the disposal area is located, a notice and covenant running with the land that the property has been permitted as a solid waste disposal area and prohibits use of the land in any manner which interferes with the closure and, where appropriate, postclosure plans filed with the department.

12. Every person desiring to obtain a permit to operate a solid waste disposal area or processing facility shall submit applicable information and apply for an operating permit from the department. The department shall review the information and determine, within sixty days of receipt, whether it complies with the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345. When the review reveals that the facility or area does conform with the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345, the department shall issue a permit for the operation of each solid waste processing facility or solid waste disposal area and with any permit terms and conditions which the department deems appropriate. In the event that the facility or area fails to meet the rules and regulations adopted pursuant to sections 260.200 to 260.345, the department shall issue a report to the applicant stating the reason for denial of a permit.

13. Each solid waste disposal area, except utility waste landfills unless otherwise and to the extent required by the department, and those solid waste processing facilities designated by rule, shall be operated under the direction of a certified solid waste technician in accordance with sections 260.200 to 260.345 and the rules and regulations promulgated pursuant to sections 260.200 to 260.345.

14. Base data for the quality and quantity of groundwater in the solid waste disposal area shall be collected and submitted to the department prior to the operation of a new or expansion of an existing solid waste disposal area. Base data shall include a chemical analysis of groundwater drawn from the proposed solid waste disposal area.

15. Leachate collection and removal systems shall be incorporated into new or expanded sanitary landfills which are permitted after August 13, 1986. The department shall assess the need for a leachate collection system for all types of solid waste disposal areas, other than sanitary landfills, and the need for monitoring wells when it evaluates the application for all new or expanded solid waste disposal areas. The department may require an operator of a solid waste disposal area to install a leachate collection system before the beginning of disposal operations, at any time during disposal operations for unfilled portions of the area, or for any portion of the disposal area as a part of a remedial plan. The department may require the operator to install monitoring wells before the beginning of disposal operations or at any time during the operational life or postclosure care period if it concludes that conditions at the area warrant such monitoring. The operator of a demolition landfill or utility waste landfill shall not be required to install a leachate collection and removal system or monitoring wells unless otherwise and to the extent the department so requires based on hazardous waste characteristic criteria or site specific geohydrological characteristics or conditions.

16. Permits granted by the department, as provided in sections 260.200 to 260.345, shall be subject to suspension for a designated period of time, civil penalty or revocation whenever the department determines that the solid waste processing facility or solid waste disposal area is, or has been, operated in violation of sections 260.200 to 260.345 or the rules or regulations adopted pursuant to sections 260.200 to 260.345, or has been operated in violation of any permit terms and conditions, or is creating a public nuisance, health hazard, or environmental pollution. In the event a permit is suspended or revoked, the person named in the permit shall be fully informed as to the reasons for such action.

17. Each permit for operation of a facility or area shall be issued only to the person named in the application. Permits are transferable as a modification to the permit. An application to transfer ownership shall identify the proposed permittee. A disclosure statement for the proposed

permittee listing violations contained in [subsection 19 of this section] **the definition of disclosure statement found in section 260.200** shall be submitted to the department. The operation and design plans for the facility or area shall be updated to provide compliance with the currently applicable law and rules. A financial assurance instrument in such an amount and form as prescribed by the department shall be provided for solid waste disposal areas by the proposed permittee prior to transfer of the permit. The financial assurance instrument of the original permittee shall not be released until the new permittee's financial assurance instrument has been approved by the department and the transfer of ownership is complete.

18. Those solid waste disposal areas permitted on January 1, 1996, shall, upon submission of a request for permit modification, be granted a solid waste management area operating permit if the request meets reasonable requirements set out by the department.

19. In case a permit required pursuant to this section is denied or revoked, the person may request a hearing in accordance with section 260.235.

20. [Any person seeking a permit or renewal of a permit to operate a commercial solid waste processing facility, or a solid waste disposal area shall, concurrently with the filing of application for a permit, file a disclosure statement with the department of natural resources. The disclosure statement shall include, but not be limited to, a listing of any felony convictions by state or federal agencies, and a listing of other enforcement actions, sanctions, permit revocations or denials by any state or federal authority of every person seeking a permit, including officers, directors, partners and facility or location managers of each person seeking a permit, any violations of Missouri environmental statutes, violations of the environmental statutes of other states or federal statutes and a listing of convictions for any crimes or criminal acts, an element of which involves restraint of trade, price-fixing, intimidation of the customers of another person or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated pursuant to this chapter or similar laws of other states or the federal government; except that convictions for violations by entities purchased or acquired by an applicant or permittee which occurred prior to the purchase or acquisition shall not be included. The department shall by rule, define those environmental violations which must be reported pursuant to this section. For purposes of this section, additional persons as required by rule shall be named in the statement and violations or convictions of such persons shall be listed. The department or its representative shall verify the information provided on the disclosure statement prior to permit issuance. The disclosure statement shall be used by the department in determining whether a permit should be granted or denied on the basis of the applicant's status as a habitual violator; however, the department has the authority to make a habitual violator determination independent of the information contained in the disclosure statement. After permit issuance, each facility shall annually file an updated disclosure statement with the department of natural resources on or before March thirty-first of each year. Any county, district, municipality, authority or other political subdivision of this state which owns and operates a sanitary landfill shall be exempt from the provisions of this subsection] **Every applicant for a permit shall file a disclosure statement with the information required by and on a form developed by the department of natural resources at the same time the application for a permit is filed with the department.**

21. [Any person seeking a permit to operate a solid waste disposal area, a solid waste processing facility or a resource recovery facility shall, concurrently with the filing of the application for a permit, disclose any convictions in this state of municipal or county public health or land use ordinances related to the management of solid waste. If the department finds that there has been a continuing pattern of serious adjudicated violations by the applicant, the department may deny the application] **Upon request of the director of the department of natural resources, the applicant for a permit, any person that could reasonably be expected to be involved in management activities of the solid waste disposal area or solid waste processing facility, or any person who has a controlling interest in any permittee shall be required to submit to a criminal background check under section 43.543.**

22. All persons required to file a disclosure statement shall provide any assistance or information requested by the director or by the Missouri state highway patrol and shall cooperate in any inquiry or investigation conducted by the department and any inquiry, investigation or hearing conducted by the director. If, upon issuance of a formal request to answer any inquiry or produce information, evidence or testimony, any person required to file a disclosure statement refuses to comply, the application of an applicant or the permit of a permittee may be denied or revoked by the director.

23. If any of the information required to be included in the disclosure statement changes, or if any additional information should be added after the filing of the statement, the person required to file it shall provide that information to the director in writing, within thirty days after the change or addition. The failure to provide such information within thirty days may constitute the basis for the revocation of or denial of an application for any permit issued or applied for in accordance with this section, but only if, prior to any such denial or revocation, the director notifies the applicant or permittee of the director's intention to do so and gives the applicant or permittee fourteen days from the date of the notice to explain why the information was not provided within the required thirty-day period. The director shall consider this information when determining whether to revoke, deny or conditionally grant the permit.

24. No person shall be required to submit the disclosure statement required by this section if the person is a corporation or an officer, director or shareholder of that corporation or any subsidiary thereof, and that corporation:

(1) Has on file and in effect with the federal Securities and Exchange Commission a registration statement required under Section 5, Chapter 38, Title 1 of the Securities Act of 1933, as amended, 15 U.S.C. Section 77e(c);

(2) Submits to the director with the application for a permit evidence of the registration described in subdivision (1) of this subsection and a copy of the corporation's most recent annual form 10-K or an equivalent report; and

(3) Submits to the director on the anniversary date of the issuance of any permit it holds under the Missouri solid waste management law evidence of registration described in subdivision (1) of this subsection and a copy of the corporation's most recent annual form 10-K or an equivalent report.

25. After permit issuance, each facility shall annually file an update to the disclosure statement with the department of natural resources on or before March thirty-first of each year. Failure to provide such update may result in penalties as provided for under section 260.240.

26. Any county, district, municipality, authority, or other political subdivision of this state which owns and operates a sanitary landfill shall be exempt from the requirement for the filing of the disclosure statement and annual update to the disclosure statement.

27. Any person seeking a permit to operate a solid waste disposal area, a solid waste processing facility, or a resource recovery facility shall, concurrently with the filing of the application for a permit, disclose any convictions in this state, county or county equivalent public health or land use ordinances related to the management of solid waste. If the department finds that there has been a continuing pattern of adjudicated violations by the applicant, the department may deny the application.

28. No permit to construct or permit to operate shall be required pursuant to this section for any utility waste landfill located in a county of the third classification with a township form of government which has a population of at least eleven thousand inhabitants and no more than twelve thousand five hundred inhabitants according to the most recent decennial census, if such utility waste landfill complies with all design and operating standards and closure requirements applicable to utility waste landfills pursuant to sections 260.200 to 260.345 and provided that no waste disposed of at such utility waste landfill is considered hazardous waste pursuant to the Missouri hazardous waste law.

260.214. PRELIMINARY SITE INVESTIGATION APPROVAL, NOT REQUIRED FOR CERTAIN COUNTIES — SEVERABILITY CLAUSE. — 1. Preliminary site investigation approval shall not be required for any municipal utility located in a county of the first classification with more than two hundred sixty but fewer than three hundred thousand inhabitants to proceed with a utility waste landfill detailed site investigation. Nothing in this section shall preclude the department from exercising its existing authority to approve or disapprove the site upon completion of the detailed site investigation. Solely for purposes of conducting the public involvement activity described in subsection 3 of section 260.205, the effective date of this section shall be considered the date of approval of the preliminary site investigation.

2. If any provision of this section or the application thereof to anyone or to any circumstance is held invalid, the remainder of this act and the application of such provisions to others or other circumstances shall not be affected thereby.

260.235. APPEAL, JUDICIAL REVIEW, PROCEDURE — INJUNCTION BASED ON SERIOUSNESS OF THREAT TO ENVIRONMENT — PERFORMANCE BOND REQUIRED, FORFEITED, WHEN. — [1.] Any person aggrieved by a forfeiture of any financial assurance instrument, civil or administrative penalty or denial, suspension or revocation of a permit required by section 260.205 or a modification to a permit issued under section 260.205 or any disapproval of the plan required by section 260.220, may [within thirty days of notice of such action request a hearing] **appeal such decision as provided in section 621.250, subject to judicial review as provided by law.** The notice of the department shall be effected by certified mail and shall set forth the reasons for such forfeiture, disapproval, denial, suspension, civil penalty or revocation. The department may seek an injunction in the circuit court in which the facility is located requiring the facility for which the transfer of ownership has been denied, or the permit or modification of the permit has been denied, suspended or revoked, to cease operations from the date ordered by the court until such time as the appeal is resolved or obtain a performance bond in the amount and manner as prescribed by rule. The department's action seeking an injunction shall be based on the seriousness of the threat to the environment which continued operation of the facility poses. [The] **A bond may be required in order to stay the effect of the department's action until the appeal is resolved, in which case such bond** shall remain in place until the appeal is resolved. If the department's decision is upheld, the bond shall be forfeited and placed in a separate subaccount of the solid waste management fund.

[2. The hearing shall be conducted by the director or his designated representative in accordance with the procedures set forth in sections 536.070, 536.073, 536.077, 536.080, and 536.090. The decision of the department shall become final thirty days after delivery or certified mailing of a copy of it to the person. Such decisions may be appealed to the administrative hearing commission pursuant to sections 536.063 to 536.095 and shall be subject to judicial review of a final decision as provided in sections 536.100 to 536.140.]

260.249. ADMINISTRATIVE PENALTIES — NOT TO BE ASSESSED FOR MINOR VIOLATION, DEFINITION — AMOUNT SET BY RULE, PAYMENT WHEN — APPEAL EFFECT — SURCHARGE DUE WHEN — UNPAID PENALTY, COLLECTION — TIME LIMITATION TO ASSESS VIOLATION — JUDICIAL APPEAL — CIVIL ACTION EFFECT, EXCEPTION. — 1. In addition to any other remedy provided by law, upon a determination by the director that a provision of sections 260.200 to 260.281, or a standard, limitation, order, rule or regulation promulgated pursuant thereto, or a term or condition of any permit has been violated, the director may issue an order assessing an administrative penalty upon the violator under this section. An administrative penalty shall not be imposed until the director has sought to resolve the violations through conference, conciliation and persuasion and shall not be imposed for minor violations of sections 260.200 to 260.281 or minor violation of any standard, limitation, order, rule or regulation promulgated pursuant to sections 260.200 to 260.281 or minor violations of any term or

condition of a permit issued pursuant to sections 260.200 to 260.281 or any violations of sections 260.200 to 260.281 by any person resulting from mismanagement of solid waste generated and managed on the property of the place of residence of the person. If the violation is resolved through conference, conciliation and persuasion, no administrative penalty shall be assessed unless the violation 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. Any order assessing an administrative penalty shall state that an administrative penalty is being assessed under this section and that the person subject to the penalty may appeal as provided by section 260.235 **and section 621.250**. Any such order that fails to state the statute under which the penalty is being sought, the manner of collection or rights of appeal shall result in the state's waiving any right to collection of the penalty.

2. The department shall promulgate rules and regulations for the assessment of administrative penalties. The amount of the administrative penalty assessed per day of violation for each violation under this section shall not exceed the amount of the civil penalty specified in section 260.240. Such rules shall reflect the criteria used for the administrative penalty matrix as provided for in the Resource Conservation and Recovery Act, 42 U.S.C. 6928(a), Section 3008(a), and the harm or potential harm which the violation causes, or may cause, the violator's previous compliance record, and any other factors which the department may reasonably deem relevant. An administrative penalty shall be paid within sixty days from the date of issuance of the order assessing the penalty. Any person subject to an administrative penalty may appeal as provided in section 260.235 **and section 621.250**. Any appeal will stay the due date of such administrative penalty until the appeal is resolved. Any person who fails to pay an administrative penalty by the final due date shall be liable to the state for a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed. Any administrative penalty paid pursuant to this section shall be handled in accordance with section 7 of article IX of the state constitution. An action may be brought in the appropriate circuit court to collect any unpaid administrative penalty, and for attorney's fees and costs incurred directly in the collection thereof.

3. An administrative penalty shall not be increased in those instances where department action, or failure to act, has caused a continuation of the violation that was a basis for the penalty. Any administrative penalty must be assessed within two years following the department's initial discovery of such alleged violation, or from the date the department in the exercise of ordinary diligence should have discovered such alleged violation.

4. The state may elect to assess an administrative penalty, or, in lieu thereof, to request that the attorney general or prosecutor file an appropriate legal action seeking a civil penalty in the appropriate circuit court.

5. Any final order imposing an administrative penalty [is subject to judicial review upon the filing of a petition pursuant to section 536.100] **may be appealed** by any person subject to the administrative penalty **as provided in section 260.235 and section 621.250, subject to judicial review as provided by law. No judicial review shall be available until all administrative remedies are exhausted.**

260.262. RETAILERS OF LEAD-ACID BATTERIES, DUTIES — NOTICE TO PURCHASER, CONTENTS. — A person selling lead-acid batteries at retail or offering lead-acid batteries for retail sale in the state shall:

- (1) Accept, at the point of transfer, in a quantity at least equal to the number of new lead-acid batteries purchased, used lead-acid batteries from customers, if offered by customers;
- (2) Post written notice which must be at least four inches by six inches in size and must contain the universal recycling symbol and the following language:
 - (a) It is illegal to discard a motor vehicle battery or other lead-acid battery;
 - (b) Recycle your used batteries; and

(c) State law requires us to accept used motor vehicle batteries, or other lead-acid batteries for recycling, in exchange for new batteries purchased; and

(3) Manage used lead-acid batteries in a manner consistent with the requirements of the state hazardous waste law;

(4) Collect at the time of sale a fee of fifty cents for each lead-acid battery sold. Such fee shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the battery have been computed. The fee imposed, less six percent of fees collected, which shall be retained by the seller as collection costs, shall be paid to the department of revenue in the form and manner required by the department and shall include the total number of batteries sold during the preceding month. The department of revenue shall promulgate rules and regulations necessary to administer the fee collection and enforcement. The terms "sold at retail" and "retail sales" do not include the sale of batteries to a person solely for the purpose of resale, if the subsequent retail sale in this state is to the ultimate consumer and is subject to the fee. However, this fee shall not be paid on batteries sold for use in agricultural operations upon written certification by the purchaser; and

(5) The department of revenue shall administer, collect, and enforce the fee authorized pursuant to this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales and use tax imposed pursuant to chapter 144 except as provided in this section. The proceeds of the battery fee, less four percent of the proceeds, which shall be retained by the department of revenue as collection costs, shall be transferred by the department of revenue into the hazardous waste fund, created pursuant to section 260.391. The fee created in subdivision (4) and this subdivision shall be effective October 1, 2005. The provisions of subdivision (4) and this subdivision shall terminate December 31, [2013] **2018**.

260.365. HAZARDOUS WASTE MANAGEMENT COMMISSION CREATED—COMPOSITION, QUALIFICATIONS—COMPENSATION—TERMS—MEETINGS, NOTICE REQUIRED, QUORUM.

— 1. There is hereby created a hazardous waste management agency to be known as the "Hazardous Waste Management Commission of the State of Missouri", whose domicile for the purpose of sections 260.350 to 260.430 shall be deemed to be that of 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 members shall belong to the same political party. All members shall be representative of the general interest of the public and shall have an interest in and knowledge of waste management and the effects of improper waste management on health and the environment and shall serve in a manner consistent with the purposes of sections 260.350 to 260.430. [Three] **Four** of the members, but no more than [three] **four**, one for each interest, shall be knowledgeable of and may be employed in agriculture, **the retail petroleum industry**, the waste generating industry and the waste management industry. Except for the industry members, no member shall receive, or have received during the previous two years, a significant portion of income directly or indirectly from any license or permit holder or applicant for license or permit under any waste management act. At the first meeting of the commission and annually thereafter, the members shall select from among themselves a chairman and a vice chairman. Prior to any vote on any variance, appeal or order, they shall adopt a voting rule to exclude from such vote any member with a conflict of interest with respect to the matter at issue.

2. The members' terms of office shall be four years and until their successors are selected and qualified, except that, of those first appointed, three shall have a term of three years, two shall have a term of two years and two shall have a term of one year as designated by the governor at the time of appointment. There is no limitation on the number of terms any appointed member may serve. If a vacancy occurs the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. The governor may remove any appointed member for cause. The members of the commission shall be reimbursed for actual and necessary expenses incurred in the performance of their duties, and shall receive fifty dollars per

day for each day spent in the performance of their official duties while in attendance at regular commission meetings.

3. The commission shall hold at least four regular meetings each year and such additional meetings as the chairman deems desirable at a place and time to be fixed by the chairman. Special meetings may be called by three members of the commission upon delivery of written notice to each member of the commission. Reasonable written notice of all meetings shall be given by the department 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. Any member absent from four consecutive regular commission meetings for any cause whatsoever shall be deemed to have resigned and the vacancy shall be filled immediately in accordance with this section.

260.380. DUTIES OF HAZARDOUS WASTE GENERATORS — FEES TO BE COLLECTED, DISPOSITION — EXEMPTIONS — EXPIRATION OF FEES. — 1. After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, hazardous waste generators located in Missouri shall:

(1) Promptly file and maintain with the department, on registration forms it provides for this purpose, information on hazardous waste generation and management as specified by rules and regulations. Hazardous waste generators shall pay a one hundred dollar registration fee upon initial registration, and a one hundred dollar registration renewal fee annually thereafter to maintain an active registration. Such fees shall be deposited in the hazardous waste fund created in section 260.391;

(2) Containerize and label all hazardous wastes as specified by standards, rules and regulations;

(3) Segregate all hazardous wastes from all nonhazardous wastes and from noncompatible wastes, materials and other potential hazards as specified by standards, rules and regulations;

(4) Provide safe storage and handling, including spill protection, as specified by standards, rules and regulations, for all hazardous wastes from the time of their generation to the time of their removal from the site of generation;

(5) Unless provided otherwise in the rules and regulations, utilize only a hazardous waste transporter holding a license pursuant to sections 260.350 to 260.430 for the removal of all hazardous wastes from the premises where they were generated;

(6) Unless provided otherwise in the rules and regulations, provide a separate manifest to the transporter for each load of hazardous waste transported from the premises where it was generated. The generator shall specify the destination of such load on the manifest. The manner in which the manifest shall be completed, signed and filed with the department shall be in accordance with rules and regulations;

(7) Utilize for treatment, resource recovery, disposal or storage of all hazardous wastes, only a hazardous waste facility authorized to operate pursuant to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized pursuant to the federal Resource Conservation and Recovery Act, or any facility exempted from the permit required pursuant to section 260.395;

(8) Collect and maintain such records, perform such monitoring or analyses, and submit such reports on any hazardous waste generated, its transportation and final disposition, as specified in sections 260.350 to 260.430 and rules and regulations adopted pursuant to sections 260.350 to 260.430;

(9) Make available to the department upon request samples of waste and all records relating to hazardous waste generation and management for inspection and copying and allow the department to make unhampered inspections at any reasonable time of hazardous waste generation and management facilities located on the generator's property and hazardous waste generation and management practices carried out on the generator's property;

(10) Pay annually, on or before January first of each year, effective January 1, 1982, a fee to the state of Missouri to be placed in the hazardous waste fund. The fee shall be five dollars per ton or portion thereof of hazardous waste registered with the department as specified in subdivision (1) of this subsection for the twelve-month period ending June thirtieth of the previous year. However, the fee shall not exceed fifty-two thousand dollars per generator site per year nor be less than one hundred fifty dollars per generator site per year;

(a) All moneys payable pursuant to the provisions of this subdivision shall be promptly transmitted to the department of revenue, which shall deposit the same in the state treasury to the credit of the hazardous waste fund created in section 260.391;

(b) The hazardous waste management commission shall establish and submit to the department of revenue procedures relating to the collection of the fees authorized by this subdivision. Such procedures shall include, but not be limited to, necessary records identifying the quantities of hazardous waste registered, the form and submission of reports to accompany the payment of fees, the time and manner of payment of fees, which shall not be more often than quarterly;

(c) The director of the department of natural resources may conduct a comprehensive review of the fee structure set forth in this section. The comprehensive review shall include stakeholder meetings in order to solicit stakeholder input from each of the following groups: cement kiln representatives, chemical companies, large and small hazardous waste generators, and any other interested parties. Upon completion of the comprehensive review, the department shall submit proposed changes to the fee structure with stakeholder agreement to the hazardous waste management commission. The commission shall, upon receiving the department's recommendations, review such recommendations at the forthcoming regular or special meeting. The commission shall not take a vote on the fee structure until the following regular meeting. If the commission approves, by vote of two-thirds majority, the hazardous waste fee structure recommendations, the commission shall promulgate by regulation and publish the recommended fee structure no later than October first of the same year. The commission shall file the order of rulemaking for such rule with the joint committee on administrative rules pursuant to sections 536.021 and 536.024 no later than December first of the same year. If such rules are not disapproved by the general assembly in the manner set out below, they shall take effect on January first of the next odd-numbered year and the fee structure set out in this section shall expire upon the effective date of the commission adopted fee structure, contrary to subsection 4 of this section. Any regulation promulgated under this subsection shall be deemed to be beyond the scope and authority provided in this subsection, or detrimental to permit applicants, if the general assembly, within the first sixty calendar days of the regular session immediately following the promulgation of such regulation, by concurrent resolution, shall disapprove the fee structure contained in such regulation. If the general assembly so disapproves any regulation promulgated under this subsection, the hazardous waste management commission shall continue to use the fee structure set forth in the most recent preceding regulation promulgated under this subsection. This subsection shall expire on August 28, 2023.

2. Missouri treatment, storage, or disposal facilities shall pay annually, on or before January first of each year, a fee to the department equal to two dollars per ton or portion thereof for all hazardous waste received from outside the state. This fee shall be based on the hazardous waste received for the twelve-month period ending June thirtieth of the previous year.

3. Exempted from the requirements of this section are individual householders and farmers who generate only small quantities of hazardous waste and any person the commission determines generates only small quantities of hazardous waste on an infrequent basis, except that:

(1) Householders, farmers and exempted persons shall manage all hazardous wastes they may generate in a manner so as not to adversely affect the health of humans, or pose a threat to the environment, or create a public nuisance; and

(2) The department may determine that a specific quantity of a specific hazardous waste requires special management. Upon such determination and after public notice by press release or advertisement thereof, including instructions for handling and delivery, generators exempted pursuant to this subsection shall deliver, but without a manifest or the requirement to use a licensed hazardous waste transporter, such waste to:

(a) Any storage, treatment or disposal site authorized to operate pursuant to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized pursuant to the federal Resource Conservation and Recovery Act which the department designates for this purpose; or

(b) A collection station or vehicle which the department may arrange for and designate for this purpose.

4. Failure to pay the fee, or any portion thereof, prescribed in this section by the due date shall result in the imposition of a penalty equal to fifteen percent of the original fee. The fee prescribed in this section shall expire December 31, [2013] **2018**, except that the department shall levy and collect this fee for any hazardous waste generated prior to such date and reported to the department.

260.390. DUTIES OF HAZARDOUS WASTE FACILITY OWNERS AND OPERATORS — TAX TO BE COLLECTED, DISPOSITION — DUTIES UPON TERMINATION OF USE OF FACILITY — INSPECTION FEES, COMMERCIAL FACILITIES, REQUIREMENTS. — 1. After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, hazardous waste facility owners or operators shall:

(1) Not construct, substantially alter or operate[, including all postclosure activities and operations specified in the rules and regulations,] a hazardous waste facility without first obtaining a hazardous waste facility permit from the department as specified in section 260.395;

(2) Operate the facility according to the standards, rules and regulations adopted under sections 260.350 to 260.430 and all terms and conditions of the permit;

(3) Unless otherwise provided in sections 260.350 to 260.430 or the rules and regulations adopted hereunder, accept delivery of hazardous waste only if delivery is by a hazardous waste transporter holding a license under sections 260.350 to 260.430, the shipment is accompanied by a manifest properly completed by both the generator and transporter and their facility is the destination indicated by the generator on the manifest. Exempted from the requirements of this subsection are deliveries, when directed by the department, from householders, farmers and other persons exempted from generator responsibilities under provisions of section 260.380 and deliveries made in emergency situations as specified in sections 260.350 to 260.550 or the rules and regulations adopted hereunder. For such exempted deliveries they shall make a record of any waste accepted, its type, quantity, origin and the identity of the person making the delivery and promptly report this information to the department;

(4) Complete, sign and file the facility operator portion of the manifest as specified in rules and regulations adopted under sections 260.350 to 260.430;

(5) Whenever final disposition is to be achieved at another hazardous waste or exempted facility, initiate a new manifest and comply with the other responsibilities of generators specified in sections 260.350 to 260.430 and in rules and regulations and terms and conditions of their permit adopted or issued hereunder;

(6) Collect and maintain such records, submit such reports and perform such monitoring as specified in sections 260.350 to 260.430 and in rules and regulations and terms and conditions of their permit adopted or issued hereunder;

(7) Make available to the department, upon request, samples of wastes received and all records, for inspection and copying, relating to hazardous waste management and allow the

department to make unhampered inspections at any reasonable time of all facilities and equipment.

2. All hazardous waste landfills shall collect, on behalf of the state from each hazardous waste generator or transporter, a tax equal to two percent of the gross charges and fees charged such generator for disposal at the landfill site to be placed in the hazardous waste fund to be used solely for the administration of sections 260.350 to 260.430. The tax shall be accounted for separately on the statement of charges and fees made to the hazardous waste generator and shall be collected at the time of the collection of such charges and fees. All moneys payable under the provisions of this subsection shall be promptly transmitted to the department of revenue, which shall daily deposit the same in the state treasury to the credit of the hazardous waste fund. The hazardous waste management commission shall establish and submit to the department of revenue procedures relating to the collection of the taxes authorized by this subsection. Such procedures shall include, but not be limited to, necessary records identifying the quantities of hazardous waste received, the form and submission of reports to accompany the payment of taxes, the time and manner of payment of taxes, which shall not be more often than quarterly.

3. The owner or operator of a hazardous waste disposal facility must close that facility upon termination of its operation, and shall after closure of the facility provide for protection during a postclosure care period, in accordance with the requirements of the commission, including the funds necessary for same. Protection shall include, but not be limited to, monitoring and maintenance subject to the rules and regulations of the hazardous waste management commission. The owner or operator shall maintain a hazardous waste facility permit for the postclosure care period. The operator and the state may enter into an agreement consistent with the rules and regulations of the hazardous waste management commission where the state may accept deed to, and monitor and maintain the site.

4. All owners or operators of hazardous waste facilities who have obtained, or are required to obtain, a hazardous waste facility permit from the department and who accept, on a commercial basis for remuneration, hazardous waste from off-site sources, but not including wastes generated by the same person at other sites located in Missouri or within a metropolitan statistical area located partially in Missouri and owned or operated by the same person and transferred to the hazardous waste facility, for treatment, storage or disposal, shall pay fees for inspections conducted by the department to determine compliance with sections 260.350 to 260.430 and the rules promulgated thereunder. Hazardous waste facility inspection fees shall be specified by the hazardous waste management commission by rule. The inspection fees shall be used by the department as specified in subsection 3 of section 260.391.

260.395. TRANSPORTATION OF HAZARDOUS WASTE, HOW PERMITTED — FEES, HOW DETERMINED — NOTICE PRIOR TO ISSUANCE OF PERMIT — PERMIT NOT REQUIRED OF WHOM — APPLICATION FOR CERTIFICATION, WHEN — PERMIT MAINTAINED FOR POSTCLOSURE CARE PERIOD — LEACHATE COLLECTION SYSTEM REQUIRED — RAILROAD HAZARDOUS WASTE TRANSPORTATION, FEE. — 1. After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, it shall be unlawful for any person to transport any hazardous waste in this state without first obtaining a hazardous waste transporter license. Any person transporting hazardous waste in this state shall file an application for a license pursuant to this subsection which shall:

(1) Be submitted on a form provided for this purpose by the department and shall furnish the department with such equipment identification and data as may be necessary to demonstrate to the satisfaction of the department that equipment engaged in such transportation of hazardous waste, and other equipment as designated in rules and regulations pursuant to sections 260.350 to 260.430, is adequate to provide protection of the health of humans and the environment and to comply with the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430. If approved by the department, this demonstration of protection may be satisfied by

providing certification that the equipment so identified meets and will be operated in accordance with the rules and regulations of the Missouri public service commission and the federal Department of Transportation for the transportation of the types of hazardous materials for which it will be used;

(2) Include, as specified by rules and regulations, demonstration of financial responsibility, including, but not limited to, guarantees, liability insurance, posting of bond or any combination thereof which shall be related to the number of units, types and sizes of equipment to be used in the transport of hazardous waste by the applicant;

(3) Include, as specified in rules and regulations, a fee payable to the state of Missouri which shall consist of an annual application fee, plus an annual use fee based upon tonnage, mileage or a combination of tonnage and mileage. The fees established pursuant to this subdivision shall be set to generate, as nearly as is practicable, six hundred thousand dollars annually. No fee shall be collected pursuant to this subdivision from railroads that pay a fee pursuant to subsection 19 of this section. Fees collected pursuant to this subdivision shall be deposited in the hazardous waste fund created pursuant to section 260.391.

2. If the department determines the application conforms to the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430, it shall issue the hazardous waste transporter license with such terms and conditions as it deems necessary to protect the health of humans and the environment. The department shall act within ninety days after receipt of the application. If the department denies the license, it shall issue a report to the applicant stating the reason for denial of the license.

3. A license may be suspended or revoked whenever the department determines that the equipment is or has been operated in violation of any provision of sections 260.350 to 260.430 or any standard, rule or regulation, order, or license term or condition adopted or issued pursuant to sections 260.350 to 260.430, poses a threat to the health of humans or the environment, or is creating a public nuisance.

4. Whenever a license is issued, renewed, denied, suspended or revoked by the department, any aggrieved person, by petition filed with the department within thirty days of the decision, may appeal such decision and shall be entitled to a hearing as provided in section 260.400.

5. A license shall be issued for a period of one year and shall be renewed upon proper application by the holder and a determination by the department that the applicant is in compliance with all provisions of sections 260.350 to 260.430 and all standards, rules and regulations, orders and license terms and conditions adopted or issued pursuant to sections 260.350 to 260.430.

6. A license is not required for the transport of any hazardous waste on the premises where it is generated or onto contiguous property owned by the generator thereof, or for those persons exempted in section 260.380. Nothing in this subsection shall be interpreted to preclude the department from inspecting unlicensed hazardous waste transporting equipment and to require that it be adequate to provide protection for the health of humans and the environment.

7. After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, it shall be unlawful for any person to construct, substantially alter or operate, including [postclosure activities and] operations specified in the rules and regulations, a hazardous waste facility without first obtaining a hazardous waste facility permit for such construction, alteration or operation from the department. Such person must submit to the department at least ninety days prior to submitting a permit application a letter of intent to construct, substantially alter or operate any hazardous waste disposal facility. The person must file an application within one hundred eighty days of the filing of a letter of intent unless granted an extension by the commission. The department shall publish such letter of intent as specified in section 493.050 within ten days of receipt of such letter. The letter shall be published once each week for four weeks in the county where the hazardous waste disposal facility is proposed. Once such letter is submitted, all conditions for the permit application

evaluation purposes in existence as of the date of submission shall be deemed frozen, in that no subsequent action by any person to change such conditions in an attempt to thwart a fair and impartial decision on the application for a permit shall be allowed as grounds for denial of the permit. Any person before constructing, substantially altering or operating a hazardous waste facility in this state shall file an application for a permit which shall:

(1) Be submitted on a form provided for this purpose by the department and shall furnish the department with plans, specifications and such other data as may be necessary to demonstrate to the satisfaction of the department that such facility does or will provide adequate protection of the health of humans and the environment and does or will comply with the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430;

(2) Include plans, designs, engineering reports and relevant data for construction, alteration or operation of a hazardous waste facility, to be submitted to the department by a registered professional engineer licensed by this state;

(3) Include, as specified by rules and regulations, demonstration of financial responsibility, including, but not limited to, guarantees, liability insurance, posting of bond or any combination thereof, which shall be related to type and size of facility;

(4) Include such environmental and geologic information, assessments and studies as required by the rules and regulations of the commission;

(5) [Submit with the application for a hazardous waste disposal or treatment facility a profile of the environmental and economic characteristics of the area as required by the commission, including the extent of air pollution and groundwater contamination; and a profile of the health characteristics of the area which identifies all serious illness, the rate of which exceeds the state average for such illness, which might be attributable to environmental contamination;

(6) Include a fee payable to the state of Missouri which shall not exceed one thousand dollars, which shall cover the first year of the permit, if issued, but which is not refundable. If the permit is issued for more than one year, a fee equal in amount to the first year's fee shall be paid to the state of Missouri prior to issuance of the permit for each year the permit is to be in effect beyond the first year;

[(7)] (6) The department shall supervise any field work undertaken to collect geologic and engineering data for submission with the application. The state geologist and departmental engineers shall review the geologic and engineering plans, respectively, and attest to their accuracy and adequacy. The applicant shall pay all reasonable costs, as determined by the commission, incurred by the department pursuant to this subsection.

8. (1) Prior to issuing or renewing a hazardous waste facility permit, the department shall issue public notice by press release or advertisement and shall notify all record owners of adjoining property by mail directed to the last known address, and the village, town or city, if any, and the county in which the hazardous waste facility is located; and, upon request, shall hold a public hearing after public notice as required in this subsection at a location convenient to the area affected by the issuance of the permit.

(2) Prior to issuing[, reviewing every five years as required in subsection 12 of this section,] or renewing a hazardous waste disposal facility permit the department shall issue public notice by press release and advertisement and shall notify all record owners of property, within one mile of the outer boundaries of the site, by mail directed to the last known address; and shall hold a public hearing after public notice as required in this subsection at a location convenient to the area affected by the issuance of the permit.

9. If the department determines that the application conforms to the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430, it shall issue the hazardous waste facility permit, with such terms and conditions and require such testing and construction supervision as it deems necessary to protect the health of humans or the environment. The department shall act within one hundred and eighty days after receipt of the

application. If the department denies the permit, it shall issue a report to the applicant stating the reason for denial of a permit.

10. A permit may be suspended or revoked whenever the department determines that the hazardous waste facility is, or has been, operated in violation of any provision of sections 260.350 to 260.430 or any standard, rule or regulation, order or permit term or condition adopted or issued pursuant to sections 260.350 to 260.430, poses a threat to the health of humans or the environment or is creating a public nuisance.

11. Whenever a permit is issued, renewed, denied, suspended or revoked by the department, any aggrieved person, by petition filed with the department within thirty days of the decision, may appeal such decision and shall be entitled to a hearing as provided in section 260.400.

12. A permit shall be issued for a fixed term, which shall not exceed ten years in the case of any land disposal facility, storage facility, incinerator, or other treatment facility. [Each permit for a land disposal facility shall be reviewed five years after the date of its issuance or reissuance and shall be modified as necessary to assure that the facility continues to comply with the currently applicable requirements of federal and state law.] Nothing in this subsection shall preclude the department from reviewing and modifying a permit at any time during its term. Review of any application for a permit renewal shall consider improvements in the state of control and measurement technology as well as changes in applicable regulations. Each permit issued pursuant to this section shall contain such terms and conditions as the department determines necessary to protect human health and the environment, and upon proper application by the holder and a determination by the department that the applicant is in compliance with all provisions of sections 260.350 to 260.430 and all standards, rules and regulations, orders and permit terms and conditions adopted or issued pursuant to sections 260.350 to 260.430.

13. A hazardous waste facility permit is not required for:

(1) On-site storage of hazardous wastes where such storage is exempted by the commission by rule or regulation; however, such storage must conform to the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the applicable standards, rules and regulations adopted pursuant to sections 260.350 to 260.430 and any other applicable hazardous materials storage and spill-prevention requirements provided by law;

(2) A publicly owned treatment works which has an operating permit pursuant to section 644.051 and is in compliance with that permit;

(3) A resource recovery facility which the department certifies uses hazardous waste as a supplement to, or substitute for, nonwaste material, and that the sole purpose of the facility is manufacture of a product rather than treatment or disposal of hazardous wastes;

(4) That portion of a facility engaged in hazardous waste resource recovery, when the facility is engaged in both resource recovery and hazardous waste treatment or disposal, provided the owner or operator can demonstrate to the department's satisfaction and the department finds that such portion is not intended and is not used for hazardous waste treatment or disposal.

14. Facilities exempted pursuant to subsection 13 of this section must comply with the provisions of subdivisions (3) to (7) of section 260.390 and such other requirements, to be specified by rules and regulations, as are necessary to comply with any federal hazardous waste management act or regulations hereunder. Generators who use such an exempted facility shall keep records of hazardous wastes transported, except by legal flow through sewer lines, to the facility and submit such records to the department in accordance with the provisions of section 260.380 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430. Any person, before constructing, altering or operating a resource recovery facility in this state shall file an application for a certification. Such application shall include:

(1) Plans, designs, engineering reports and other relevant information as specified by rule that demonstrate that the facility is designed and will operate in a manner protective of human health and the environment; and

(2) An application fee of not more than five hundred dollars for a facility that recovers waste generated at the same facility or an application fee of not more than one thousand dollars for a facility that recovers waste generated at off-site sources. Such fees shall be deposited in the hazardous waste fund created in section 260.391. The department shall review such application for conformance with applicable laws, rules and standard engineering principles and practices. The applicant shall pay to the department all reasonable costs, as determined by the commission, incurred by the department pursuant to this subsection. All such funds shall be deposited in the hazardous waste fund created in section 260.391.

15. The owner or operator of any hazardous waste facility in existence on September 28, 1977, who has achieved federal interim status pursuant to 42 U.S.C. 6925(e), and who has submitted to the department Part A of the federal facility permit application, may continue to receive and manage hazardous wastes in the manner as specified in the Part A application, and in accordance with federal interim status requirements, until completion of the administrative disposition of a permit application submitted pursuant to sections 260.350 to 260.430. The department may at any time require submission of, or the owner or operator may at any time voluntarily submit, a complete application for a permit pursuant to sections 260.350 to 260.430 and commission regulations. The authority to operate pursuant to this subsection shall cease one hundred eighty days after the department has notified an owner or operator that an application for permit pursuant to sections 260.350 to 260.430 must be submitted, unless within such time the owner or operator submits a completed application therefor. Upon submission of a complete application, the authority to operate pursuant to this subsection shall continue for such reasonable time as is required to complete the administrative disposition of the permit application. If a facility loses its federal interim status, or the Environmental Protection Agency requires the owner or operator to submit Part B of the federal application, the department shall notify the owner or operator that an application for a permit must be submitted pursuant to this subsection. In addition to compliance with the federal interim status requirements, the commission shall have the authority to adopt regulations requiring persons operating pursuant to this subsection to meet additional state interim status requirements.

16. [A license or permit shall not be issued to any person who is determined by the department to habitually engage in or to have habitually engaged in hazardous waste management practices which pose a threat to the health of humans or the environment or who is determined by the department to habitually violate or to have habitually violated the requirements of the Missouri solid or hazardous waste laws, the solid or hazardous waste laws of other states or federal laws pertaining to hazardous waste. Nor shall a license or permit be issued to any person who has been adjudged in contempt of any court order enforcing the provisions of the Missouri solid or hazardous waste laws, the solid or hazardous waste laws of other states or federal laws pertaining to hazardous waste or who has offered, in person or through an agent, any inducement, including any discussion of potential employment opportunities, to any employee of the department when such person has an application for a permit pending or a permit under review. For the purposes of this subsection, the term "person" shall include any officer or management employee of the applicant, or any officer or management employee of any corporation or business which owns an interest in the applicant, or any officer or management employee of any business which is owned either wholly or in part by any person, corporation, or business which owns an interest in the applicant.

17.] No person, otherwise qualified pursuant to sections 260.350 to 260.430 for a license to transport hazardous wastes or for a permit to construct, substantially alter or operate a hazardous waste facility, shall be denied such license or permit on the basis of a lack of need for such transport service or such facility because of the existence of other services or facilities capable of meeting that need; except that permits for hazardous waste facilities may be denied on determination made by the department that the financial resources of the persons applying are such that the continued operation of the sites in accordance with sections 260.350 to 260.430 cannot be reasonably assured or on determination made by the department that the probable

volume of business is insufficient to ensure and maintain the solvency of then existing permitted hazardous waste facilities.

[18.] 17. All hazardous waste landfills constructed after October 31, 1980, shall have a leachate collection system. The rules and regulations of the commission shall treat and protect all aquifers to the same level of protection. The provisions of this subsection shall not apply to the disposal of tailings and slag resulting from mining, milling and primary smelting operations.

[19.] 18. Any railroad corporation as defined in section 388.010 that transports any hazardous waste as defined in section 260.360 or any hazardous substance as defined in section 260.500 shall pay an annual fee of three hundred fifty dollars. Fees collected pursuant to this subsection shall be deposited in the hazardous waste fund created in section 260.391.

260.475. FEES TO BE PAID BY HAZARDOUS WASTE GENERATORS — EXCEPTIONS — DEPOSIT OF MONEYS — VIOLATIONS, PENALTY — DEPOSIT — FEE REQUIREMENT, EXPIRATION — FEE STRUCTURE REVIEW. —

1. Every hazardous waste generator located in Missouri shall pay, in addition to the fees imposed in section 260.380, a fee of twenty-five dollars per ton annually on all hazardous waste which is discharged, deposited, dumped or placed into or on the soil as a final action, and two dollars per ton on all other hazardous waste transported off site. No fee shall be imposed upon any hazardous waste generator who registers less than ten tons of hazardous waste annually pursuant to section 260.380, or upon:

(1) Hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site;

(2) Fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(3) Solid waste from the extraction, beneficiation and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore and smelter slag waste from the processing of materials into reclaimed metals;

(4) Cement kiln dust waste;

(5) Waste oil; or

(6) Hazardous waste that is:

(a) Reclaimed or reused for energy and materials;

(b) Transformed into new products which are not wastes;

(c) Destroyed or treated to render the hazardous waste nonhazardous; or

(d) Waste discharged to a publicly owned treatment works.

2. The fees imposed in this section shall be reported and paid to the department on an annual basis not later than the first of January. The payment shall be accompanied by a return in such form as the department may prescribe.

3. All moneys collected or received by the department pursuant to this section shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the hazardous waste fund created pursuant to section 260.391. Following each annual reporting date, the state treasurer shall certify the amount deposited in the fund to the commission.

4. If any generator or transporter fails or refuses to pay the fees imposed by this section, or fails or refuses to furnish any information reasonably requested by the department relating to such fees, there shall be imposed, in addition to the fee determined to be owed, a penalty of fifteen percent of the fee shall be deposited in the hazardous waste fund.

5. If the fees or any portion of the fees imposed by this section are not paid by the date prescribed for such payment, there shall be imposed interest upon the unpaid amount at the rate of ten percent per annum from the date prescribed for its payment until payment is actually made, all of which shall be deposited in the hazardous waste fund.

6. The state treasurer is authorized to deposit all of the moneys in the hazardous waste fund in any of the qualified depositories of the state. All such deposits shall be secured in such a manner and shall be made upon such terms and conditions as are now or may hereafter be

provided for by law relative to state deposits. Interest received on such deposits shall be credited to the hazardous waste fund.

7. This fee shall expire December 31, [2013] **2018**, except that the department shall levy and collect this fee for any hazardous waste generated prior to such date and reported to the department.

8. The director of the department of natural resources may conduct a comprehensive review of the fee structure set forth in this section. The comprehensive review shall include stakeholder meetings in order to solicit stakeholder input from each of the following groups: cement kiln representatives, chemical companies, large and small hazardous waste generators, and any other interested parties. Upon completion of the comprehensive review, the department shall submit proposed changes to the fee structure with stakeholder agreement to the hazardous waste management commission. The commission shall, upon receiving the department's recommendations, review such recommendations at the forthcoming regular or special meeting. The commission shall not take a vote on the fee structure until the following regular meeting. If the commission approves, by vote of two-thirds majority, the hazardous waste fee structure recommendations, the commission shall promulgate by regulation and publish the recommended fee structure no later than October first of the same year. The commission shall file the order of rulemaking for such rule with the joint committee on administrative rules pursuant to sections 536.021 and 536.024 no later than December first of the same year. If such rules are not disapproved by the general assembly in the manner set out below, they shall take effect on January first of the next odd-numbered year and the fee structure set out in this section shall expire upon the effective date of the commission adopted fee structure, contrary to subsection 9 of this section. Any regulation promulgated under this subsection shall be deemed to be beyond the scope and authority provided in this subsection, or detrimental to permit applicants, if the general assembly, within the first sixty calendar days of the regular session immediately following the promulgation of such regulation, by concurrent resolution, shall disapprove the fee structure contained in such regulation. If the general assembly so disapproves any regulation promulgated under this subsection, the hazardous waste management commission shall continue to use the fee structure set forth in the most recent preceding regulation promulgated under this subsection. This subsection shall expire on August 28, 2023.

261.023. POWERS, DUTIES, FUNCTIONS TRANSFERRED TO DEPARTMENT OF AGRICULTURE AND CERTAIN OTHER DESIGNATED AGENCIES. — 1. There is hereby created a department of agriculture to be headed by a director of the department of agriculture to be appointed by the governor, by and with the advice and consent of the senate. The director shall possess the qualifications presently provided by law for the position of commissioner of agriculture.

2. All powers, duties and functions now vested by law to the commissioner of the department of agriculture and the department of agriculture, chapter 261 and others, are transferred by type I transfer to the director of the department of agriculture and to the department of agriculture herein created.

3. The state horticultural society created by sections 262.010 and 262.020 is transferred by type I transfer to the department of agriculture.

4. All the powers, duties, and functions vested in the state milk board, chapter 196, are transferred to the department of agriculture by type III transfer. The appointed members of the board shall be nominated by the department director, and appointed by the governor with the advice and consent of the senate. The department of health and senior services shall retain the powers, duties and functions assigned by chapter 196.

5. All the powers, duties, functions and properties of the state fruit experiment station, chapter 262, are transferred by type I transfer to the Southwest Missouri State University and fruit experiment station board of trustees is abolished.

6. All the powers, duties and functions of the department of revenue relating to the inspection of motor fuel and special fuel distributors, chapters 323 and 414, are transferred by type I transfer to the department of agriculture and to the director of that department. The collection of the taxes provided in chapters 142 and 136, however, shall be made by the department of revenue.

7. All the powers, duties, and functions of the land survey program of the department of natural resources are transferred to the department of agriculture by type I transfer.

444.772. PERMIT — APPLICATION, CONTENTS, FEES — AMENDMENT, HOW MADE — SUCCESSOR OPERATOR, DUTIES OF. — 1. Any operator desiring to engage in surface mining shall make written application to the director for a permit.

2. Application for permit shall be made on a form prescribed by the commission and shall include:

- (1) The name of all persons with any interest in the land to be mined;
- (2) The source of the applicant's legal right to mine the land affected by the permit;
- (3) The permanent and temporary post office address of the applicant;
- (4) Whether the applicant or any person associated with the applicant holds or has held any other permits pursuant to sections 444.500 to 444.790, and an identification of such permits;
- (5) The written consent of the applicant and any other persons necessary to grant access to the commission or the director to the area of land affected under application from the date of application until the expiration of any permit granted under the application and thereafter for such time as is necessary to assure compliance with all provisions of sections 444.500 to 444.790 or any rule or regulation promulgated pursuant to them. Permit applications submitted by operators who mine an annual tonnage of less than ten thousand tons shall be required to include written consent from the operator to grant access to the commission or the director to the area of land affected;
- (6) A description of the tract or tracts of land and the estimated number of acres thereof to be affected by the surface mining of the applicant for the next succeeding twelve months; and
- (7) Such other information that the commission may require as such information applies to land reclamation.

3. The application for a permit shall be accompanied by a map in a scale and form specified by the commission by regulation.

4. The application shall be accompanied by a bond, security or certificate meeting the requirements of section 444.778, a geologic resources fee authorized under section 256.700, and a permit fee approved by the commission not to exceed one thousand dollars. The commission may also require a fee for each site listed on a permit not to exceed four hundred dollars for each site. If mining operations are not conducted at a site for six months or more during any year, the fee for such site for that year shall be reduced by fifty percent. The commission may also require a fee for each acre bonded by the operator pursuant to section 444.778 not to exceed twenty dollars per acre. If such fee is assessed, the per-acre fee on all acres bonded by a single operator that exceed a total of two hundred acres shall be reduced by fifty percent. In no case shall the total fee for any permit be more than three thousand dollars. Permit and renewal fees shall be established by rule, except for the initial fees as set forth in this subsection, and shall be set at levels that recover the cost of administering and enforcing sections 444.760 to 444.790, making allowances for grants and other sources of funds. The director shall submit a report to the commission and the public each year that describes the number of employees and the activities performed the previous calendar year to administer sections 444.760 to 444.790. For any operator of a gravel mining operation where the annual tonnage of gravel mined by such operator is less than five thousand tons, the total cost of submitting an application shall be three

hundred dollars. The issued permit shall be valid from the date of its issuance until the date specified in the mine plan unless sooner revoked or suspended as provided in sections 444.760 to 444.790. Beginning August 28, 2007, the fees shall be set at a permit fee of eight hundred dollars, a site fee of four hundred dollars, and an acre fee of ten dollars, with a maximum fee of three thousand dollars. Fees may be raised as allowed in this subsection after a regulation change that demonstrates the need for increased fees.

5. An operator desiring to have his or her permit amended to cover additional land may file an amended application with the commission. Upon receipt of the amended application, and such additional fee and bond as may be required pursuant to the provisions of sections 444.760 to 444.790, the director shall, if the applicant complies with all applicable regulatory requirements, issue an amendment to the original permit covering the additional land described in the amended application.

6. An operation may withdraw any land covered by a permit, excepting affected land, by notifying the commission thereof, in which case the penalty of the bond or security filed by the operator pursuant to the provisions of sections 444.760 to 444.790 shall be reduced proportionately.

7. Where mining or reclamation operations on acreage for which a permit has been issued have not been completed, the permit shall be renewed. The operator shall submit a permit renewal form furnished by the director for an additional permit year and pay a fee equal to an application fee calculated pursuant to subsection 4 of this section, but in no case shall the renewal fee for any operator be more than three thousand dollars. For any operator involved in any gravel mining operation where the annual tonnage of gravel mined by such operator is less than five thousand tons, the permit as to such acreage shall be renewed by applying on a permit renewal form furnished by the director for an additional permit year and payment of a fee of three hundred dollars. Upon receipt of the completed permit renewal form and fee from the operator, the director shall approve the renewal. With approval of the director and operator, the permit renewal may be extended for a portion of an additional year with a corresponding prorating of the renewal fee.

8. Where one operator succeeds another at any uncompleted operation, either by sale, assignment, lease or otherwise, the commission may release the first operator from all liability pursuant to sections 444.760 to 444.790 as to that particular operation if both operators have been issued a permit and have otherwise complied with the requirements of sections 444.760 to 444.790 and the successor operator assumes as part of his or her obligation pursuant to sections 444.760 to 444.790 all liability for the reclamation of the area of land affected by the former operator.

9. The application for a permit shall be accompanied by a plan of reclamation that meets the requirements of sections 444.760 to 444.790 and the rules and regulations promulgated pursuant thereto, and shall contain a verified statement by the operator setting forth the proposed method of operation, reclamation, and a conservation plan for the affected area including approximate dates and time of completion, and stating that the operation will meet the requirements of sections 444.760 to 444.790, and any rule or regulation promulgated pursuant to them.

10. At the time that a permit application is deemed complete by the director, the operator shall publish a notice of intent to operate a surface mine in any newspaper qualified pursuant to section 493.050 to publish legal notices in any county where the land is located. If the director does not respond to a permit application within forty-five calendar days, the application shall be deemed to be complete. Notice in the newspaper shall be posted once a week for four consecutive weeks beginning no more than ten days after the application is deemed complete. The operator shall also send notice of intent to operate a surface mine by certified mail to the governing body of the counties or cities in which the proposed area is located, and to the last known addresses of all record landowners of contiguous real property or real property located adjacent to the proposed mine plan area. The notices shall include the name and address of the

operator, a legal description consisting of county, section, township and range, the number of acres involved, a statement that the operator plans to mine a specified mineral during a specified time, and the address of the commission. The notices shall also contain a statement that any person with a direct, personal interest in one or more of the factors the commission may consider in issuing a permit may request a public meeting, a public hearing or file written comments to the director no later than fifteen days following the final public notice publication date.

11. The commission may approve a permit application or permit amendment whose operation or reclamation plan deviates from the requirements of sections 444.760 to 444.790 if it can be demonstrated by the operator that the conditions present at the surface mining location warrant an exception. The criteria accepted for consideration when evaluating the merits of an exception or variance to the requirements of sections 444.760 to 444.790 shall be established by regulations.

12. Fees imposed pursuant to this section shall become effective August 28, 2007, and shall expire on December 31, [2013] **2018**. No other provisions of this section shall expire.

621.250. APPEALS FROM DECISIONS OF CERTAIN ENVIRONMENTAL COMMISSIONS TO BE HEARD BY ADMINISTRATIVE HEARING COMMISSION — PROCEDURE. — 1. All authority to hear **contested case administrative** appeals granted in chapters **236, 256, 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. **For appeals pursuant to chapter 236, chapter 256, section 260.235, or section 260.249, the administrative hearing commission shall render a final decision rather than a recommended decision.** The administrative hearing commission may render [a] **its recommended or final 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 ninety days after the date on which the notice of appeal is filed the administrative hearing commission may hold hearings, and within one hundred twenty days after the date on which the notice of appeal is filed shall make a recommended decision [based on those hearings or shall make a recommended 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] , **or a final decision where applicable**, in accordance with the requirements of this [subsection] **section** and the rules and procedures of the administrative hearing commission; provided, however, that the dates by which the administrative hearing commission is required to hold hearings and make a recommended decision may be extended at the sole discretion of the permittee as either petitioner or intervenor in the appeal.

3. Any decision by the director of the department of natural resources that may be appealed as provided in subsection 1 of this section shall contain a notice of the right of appeal in substantially the following language: "If you were adversely affected by this decision, you may **be entitled to pursue an appeal [to have the matter heard by] before** 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] a 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 one hundred eighty days of the date the notice of appeal in subsection 2 of this section is filed and shall be based only on the facts and evidence in the hearing record; provided, however, that the date by which the commission is required to issue a final decision may be extended at the sole discretion of the permittee as either petitioner or intervenor in the appeal. 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] **department of natural resources** 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.

640.010. DEPARTMENT CREATED — DIRECTOR, APPOINTMENT, POWERS, DUTIES — TRANSFER OF CERTAIN AGENCIES. — 1. There is hereby created a department of natural resources in charge of a director appointed by the governor, by and with the advice and consent of the senate. The director shall administer the programs assigned to the department relating to environmental control and the conservation and management of natural resources. The director shall coordinate and supervise all staff and other personnel assigned to the department. He shall faithfully cause to be executed all policies established by the boards and commissions assigned to the department, be subject to their decisions as to all substantive and procedural rules and his **or her** decisions shall be subject to appeal [to the board or commission on request of the board or commission or by affected parties] **as provided by law**. The director shall recommend policies to the various boards and commissions assigned to the department to achieve effective and coordinated environmental control and natural resource conservation policies.

2. The director shall appoint directors of staff to service each of the policy making boards or commissions assigned to the department. Each director of staff shall be qualified by education, training and experience in the technical matters of the board to which he is assigned and his **or her** appointment shall be approved by the board to which he is assigned and he shall be removed or reassigned on their request in writing to the director of the department. All other employees of the department and of each board and commission assigned to the department shall be appointed by the director of the department in accord with chapter 36, and shall be assigned

and may be reassigned as required by the director of the department in such a manner as to provide optimum service, efficiency and economy.

3. The air conservation commission, chapter 203 and others, the clean water commission, chapter 204 and others, are transferred by type II transfer to the department of natural resources. The governor shall appoint the members of these bodies in accord with the laws establishing them, with the advice and consent of the senate. The bodies hereby transferred shall retain all rulemaking and hearing powers allotted by law, as well as those of any bodies transferred to their jurisdiction. All the powers, duties and functions of the state environmental improvement authority, chapter 260 and others, are transferred by type III transfer to the air conservation commission. All the powers, duties and functions of the water resources board, chapter 256 and others, are transferred by type I transfer to the clean water commission and the board is abolished. No member of the clean water commission shall receive or shall have received, during the previous two years from the date of his **or her** appointment, a significant portion of his **or her** income directly or indirectly from permit holders or applicants for a permit under the jurisdiction of the clean water commission. The state park board, chapter 253, is transferred to the department of natural resources by type I transfer.

4. All the powers, duties and functions of the state soil and water districts commission, chapter 278 and others, are transferred by a type II transfer to the department.

5. All the powers, duties and functions of the state geologist, chapter 256 and others, are transferred by type I transfer to the department of natural resources. [All the powers, duties and functions of the state land survey authority, chapter 60, are transferred to the department of natural resources by type I transfer and the authority is abolished.] All the powers, duties and functions of the state oil and gas council, chapter 259 and others, are transferred to the department of natural resources by type II transfer. The director of the department shall appoint a state geologist who shall have the duties to supervise and coordinate the work formerly done by the departments or authorities abolished by this subsection, and shall provide staff services for the state oil and gas council.

6. All the powers, duties and functions of the land reclamation commission, chapter 444 and others, are transferred to the department of natural resources by type II transfer. All necessary personnel required by the commission shall be selected, employed and discharged by the commission. The director of the department shall not have the authority to abolish positions.

7. The functions performed by the division of health in relation to the maintenance of a safe quality of water dispensed to the public, sections 640.100 to 640.115, and others, and for licensing and regulating solid waste management systems and plans are transferred by type I transfer to the department of natural resources.

[8. (1) The state interagency council for outdoor recreation, chapter 258, is transferred to the department of natural resources by type II transfer. The council shall consist of representatives of the following state agencies: department of agriculture; department of conservation; office of administration; department of natural resources; department of economic development; department of social services; department of transportation; and the University of Missouri.

(2) The council shall function as provided in chapter 258, except that the department of natural resources shall provide all staff services as required by the council notwithstanding the provisions of sections 258.030 and 258.040, and all personnel and property of the council are hereby transferred by type I transfer to the department of natural resources and the office of executive secretary to the council is abolished.]

640.012. BURDEN OF PROOF IN CONTESTED CASES HEARD BY ADMINISTRATIVE HEARING COMMISSION, EXCEPTIONS. — In all [matters] **contested case administrative appeals** heard by the [department of natural resources in this chapter and chapters 260, 278, 444, 643, and 644, the hazardous waste management commission in chapter 260, the state soil and water districts commission in chapter 278, the land reclamation commission in chapter 444, the

safe drinking water commission in this chapter, the air conservation commission in chapter 643, and the clean water commission in chapter 644] **administrative hearing commission pursuant to section 621.250**, the burden of proof shall be upon the department of natural resources [or the commission that issued] **to demonstrate the lawfulness of** the finding, order, decision or assessment being appealed, except that in matters involving the denial of a permit, license or registration, the burden of proof shall be on the applicant for such permit, license or registration.

640.017. UNIFIED PERMIT SCHEDULE AUTHORIZED FOR ACTIVITIES REQUIRING MULTIPLE PERMITS — DIRECTOR'S DUTIES — PROCEDURE — RULEMAKING AUTHORITY.

— 1. **Notwithstanding any other provision of law**, for activities that may require multiple environmental state permits **or certifications**, an applicant may [request to coordinate] **directly petition the director for purposes of approving or denying such permits or certifications, and for purposes of coordinating** a unified permit schedule with the department which covers the timing and order to obtain such permits **in a coordinated and streamlined process**. In determining the schedule, the department and applicant shall consider which permits are most critical for the regulated activity, the need for unified public participation for all of the regulated aspects of the permitted activity, the applicant's anticipated staging of construction and financing for the permitted activity, and the applicant's use of innovative environmental approaches or strategies to minimize its environmental impacts.

2. **In order to facilitate a unified and streamlined permitting process, the director shall develop and implement a process to coordinate the processing of multiple environmental permits, certifications, or permit modifications from a single applicant.**

3. The department may initiate the unified permits process for a class of similar activities by notifying any known applicants interested in those regulated activities of the intent to use the unified process. To the extent practicable and consistent with the purposes of this section, the department shall coordinate with interested applicants on the unified permit schedule.

[3.] 4. The [department] **process developed and implemented by the director** shall **include working with such applicants in an effort to help** determine, **at the earliest stage**, all of the permits required for a specific proposed activity based on information provided by the applicant; additional information regarding the proposed activity may result in different permits being required. The department shall [propose] **inform applicants that** a unified permitting schedule [to interested applicants] **is available**. Any multiple-permit applicant may decline at any time to have its permits processed in accordance with the schedule and instead proceed [in] **on** a permit-by-permit approach. The department shall publicize the order and tentative schedule on the department's internet website.

[4.] 5. Following the establishment of a unified permit schedule, the director shall notify the applicant in writing of the order in which the applicant shall obtain permits. The department shall proceed to consider applications accordingly and may only modify the schedule with the consent of the applicant through the date of the public hearing. Each application shall be reviewed by the department based solely on its own merits and compliance with the applicable law.

[5.] 6. The department shall coordinate with the applicant, to the extent possible, to align the unified permit process so that all public meetings or hearings related to the permits are consolidated into one hearing in a location near the facility.

[6.] 7. In furtherance of this section, the director may waive otherwise applicable procedural requirements related to timing as set forth in state environmental laws or rules found in this chapter and chapters **236, 259, 260, 444, 643, and 644**, so long as:

- (1) The public comment periods related to each permit are not shortened; and
- (2) The unified permitting schedule does not impair the ability of the applicant or the department to comply with substantive legal requirements related to the permit application.

[7.] 8. The director 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, 2008, shall be invalid and void.

640.026. ENFORCEMENT AND PENALTIES, LIST OF DOCUMENTS PRODUCED FOR EXTERNAL DISSEMINATION — JCAR REVIEW, CONTENTS. — 1. The department of natural resources shall, by December 1, 2013, and annually thereafter, develop a list of all documents produced for external dissemination, excluding permits, that the department utilizes to implement enforcement actions or penalties levied by the department which have not been established in statute or have not been promulgated pursuant to chapter 536. The list and all documents referenced shall be provided to the joint committee on administrative rules for the purpose of a review, in consultation with the department, to determine if the documents are statements of general applicability that implement, interpret, or prescribe law or policy that should be subject to the rulemaking process prescribed in chapter 536.

2. All documents, excluding permits and rules, produced by the department for external dissemination shall contain:

- (1) The name of the department;
- (2) The name of the division of the department, if applicable;
- (3) The name of the director of the division, if applicable;
- (4) The calendar date on which the document was produced; and
- (5) A disclosure statement stating: "Nothing in this document may be used to implement any enforcement action or levy any penalty unless promulgated by rule under chapter 536 or authorized by statute."

3. The list and all documents required by this section to be provided to the joint committee on administrative rules shall be satisfied by providing either physical copies of both a list and all documents, excluding permits, or by providing a list of documents accompanied by a separate uniform resource locator for each listed document.

640.065. REVOLVING SERVICES FUND CREATED, USE OF MONEYS. — 1. The "Department of Natural Resources Revolving Services Fund" is hereby created. All funds received by the department of natural resources from the delivery of services and the sale or resale of maps, plats, reports, studies, records, and other publications and documents, on paper or in electronic format, shall be credited to the fund. The director of the department shall administer the fund. The state treasurer is the custodian of the fund and may approve disbursements from the fund requested by the director of the department. When appropriated, moneys in the fund shall be used to purchase goods, equipment, hardware and software, maintenance and licenses, software and database development and maintenance, personal services, and other services that will ultimately be used to provide copies of information maintained or provided by the department, reprint maps, publications or other documents requested by governmental agencies or members of the general public; to publish the maps, publications, or other documents; to purchase maps, publications, or other documents for resale; and to pay shipping charges, laboratory services, core library fees, workshop fees, conference fees, and interdivisional cooperative agreements, but for no other purpose.

2. The department of natural resources may produce, reproduce, and sell maps, plats, reports, studies, and records and shall fix the charge therefor. All income received shall be promptly deposited in the state treasury to the credit of the department of natural resources revolving services fund.

3. An unencumbered balance not exceeding one million dollars in the department of natural resources revolving services fund at the end of the fiscal year is exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

4. The department of natural resources shall report all income to and expenditures from such fund on a quarterly basis to the house of representatives budget committee and the senate appropriations committee.

640.075. BROCHURES ON THOMAS HART BENTON MURALS AND CAPITOL ART WORK, PUBLICATION. — The department of natural resources is authorized to gather data, photographs and such other materials as may be necessary and to prepare, edit and publish from time to time, as deemed necessary, copies of a brochure on the Thomas Hart Benton murals in the house lounge and on other major works of art of the Missouri state capitol. The brochure shall be sold at a price to be set by the department of natural resources. The proceeds from the sale of the brochure shall be deposited in the state treasury to the credit of the natural resources [document] revolving services fund created in section [60.595] **640.065.**

640.080. E. COLI MEASURING STANDARD — POSTING OF SIGNS WHEN BEACHES EXCEED, LANGUAGE — AUTHORITY TO CLOSE BEACHES. — **1. For Missouri state parks' designated swim beaches, a standard that measures E. coli using the Environmental Protection Agency's Method 1603, or any other equivalent method that measures culturable E. coli, with the geometric mean (GM) of weekly sampling of one hundred ninety colony forming units per one hundred milliliters shall be utilized.**

2. If beaches exceed the GM standard established in subsection 1 of this section, the department of natural resources shall post the beach with signs that state "Swimming is Not Recommended".

3. The department reserves the right to close a beach in the event of a documented health risk including things such as but not limited to wastewater by-pass, extremely high sampling values, spills of hazardous chemicals, or localized outbreaks of an infectious disease.

640.236. PUNITIVE AND EXEMPLARY DAMAGES, EXEMPT FROM, WHEN. — In all civil actions involving claims for exposure or contamination arising from the ownership, maintenance, management, or control of underground hard rock mining or hard rock milling sites that ceased operations prior to January 1, 1975, or such claims that arise from chat or tailings generated at those sites, brought against persons or entities alleged to have owned, maintained, managed, or controlled such sites, chat, or tailings at any time, such persons and entities shall be exempt from punitive or exemplary damages with respect to all such claims that relate in any way to the ownership, maintenance, management, or control of such sites, chat, or tailings, so long as such persons or entities or their employees, agents, owners, parent, subsidiary, or any related companies have made or are making good faith efforts to remediate such sites. Any evidence may be introduced to demonstrate good faith efforts to remediate including substantial compliance with an order or permit issued by or negotiated with either the state of Missouri or the United States concerning remediation or closure. The total of any awards of punitive or exemplary damages shall not exceed two million five hundred thousand dollars in the aggregate as to all defendants in a civil action within this section. The provisions of section 537.675 shall not apply to such action, and one-half of any such awards for punitive or exemplary damages shall be paid into the Missouri lead abatement loan fund established under section 701.337. Nothing in this section shall be construed as precluding any party from pursuing compensatory damages, including claims for natural resource damages.

640.715. NOTIFICATION BY OWNERS OR OPERATORS, INFORMATION REQUIRED — DEPARTMENT TO ISSUE PERMIT, WHEN. — 1. Prior to filing an application to acquire [a construction] **an operating permit for a new or expanded facility** from the department, the owner or operator of any class IA, class IB, or class IC concentrated animal feeding operation shall provide the following information to the department, to the county governing body and to all adjoining property owners of property located within one and one-half times the buffer distance as specified in subsection 2 of section 640.710 for the size of the proposed facility:

- (1) The number of animals anticipated at such facility;
- (2) The waste handling plan and general layout of the facility;
- (3) The location and number of acres of such facility;
- (4) Name, address, telephone number and registered agent for further information as it relates to subdivisions (1) to (3) of this subsection;
- (5) Notice that the department will accept written comments from the public for a period of thirty days; and
- (6) The address of the regional or state office of the department. The department shall require proof of such notification upon accepting an application for [a construction] **an operating permit for a new or expanded facility**. The department shall accept written comments from the public for thirty days after receipt of application for [construction] **such permit**.

2. The department shall not issue [a] **an operating permit** to a facility described in subsection 1 of this section to engage in any activity regulated by the department unless the applicant is in compliance with sections 640.700 to 640.755.

3. The department shall issue [a] **an operating permit** or respond with a letter of comment to the owner or operator of such facility within forty-five days of receiving a completed permit application and verification of compliance with subsection 1 of this section.

640.725. INSPECTION OF FACILITY, WHEN, RECORDS RETENTION PERIOD — AUTOMATIC SHUTOFF SYSTEM REQUIRED. — 1. The owner or operator of any flush system animal waste wet handling facility shall employ one or more persons who shall **once per week** visually inspect the [animal waste wet handling facility and lagoons for unauthorized discharge and structural integrity at least every twelve hours with a deviation of not to exceed three hours] **gravity outfall lines, recycle pump stations, recycle force mains, and appurtenances for any release to any containment structure required by section 640.730. The owner or operator shall also visually inspect once per day any lagoon whose water level is less than twelve inches from the emergency spillway.** The owner or operator of the facility shall keep records of each inspection. Such records shall be retained for three years. The department shall provide or approve a form provided by the owner or operator for each facility for such inspections.

2. All new construction permits for flush system animal waste wet handling facilities shall have an electronic or mechanical shutoff of the system in the event of pipe stoppage. As of July 1, 1997, all existing flush system animal waste wet handling facilities shall have, at a minimum, an electronic or mechanical shutoff of the system in the event of pipe stoppage or backflow.

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 — FEE STRUCTURE REVIEW. — 1. Any air contaminant source required to obtain a permit issued under sections 643.010 to 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 643.355, taking into account other moneys received pursuant to sections 643.010 to 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 643.355 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 643.355. 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 643.355 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.

10. The director of the department of natural resources may conduct a comprehensive review of the fee structure set forth in this section. The comprehensive review shall include stakeholder meetings in order to solicit stakeholder input from each of the following groups: electric utilities, mineral and metallic mining and processing facilities, cement kiln representatives, and any other interested industrial or business entities or interested parties. Upon completion of the comprehensive review, the department shall submit proposed changes to the fee structure with stakeholder agreement to the air conservation commission. The commission shall, upon receiving the department's recommendations, review such recommendations at the forthcoming regular or special meeting. The commission shall review fee structure recommendations from the

department. The commission shall not take a vote on the fee structure recommendations until the following regular or special meeting. If the commission approves, by vote of two-thirds majority or five of seven commissioners, the fee structure recommendations, the commission shall promulgate by regulation and publish the recommended fee structure no later than October first of the same year. The commission shall file the order of rulemaking for such rule with the joint committee on administrative rules pursuant to sections 536.021 and 536.024 no later than December first of the same year. If such rules are not disapproved by the general assembly in the manner set out below, they shall take effect on January first of the next odd-numbered year and the fee structure set out in this section shall expire upon the effective date of the commission adopted fee structure. Any regulation promulgated under this subsection shall be deemed to be beyond the scope and authority provided in this subsection, or detrimental to permit applicants, if the general assembly, within the first sixty calendar days of the regular session immediately following the promulgation of such regulation, by concurrent resolution, shall disapprove the fee structure contained in such regulation. If the general assembly so disapproves any regulation promulgated under this subsection, the air conservation commission shall continue to use the fee structure set forth in the most recent preceding regulation promulgated under this subsection. This subsection shall expire on August 28, 2023.

644.029. NEW WATER QUALITY REQUIREMENTS, GRANDFATHERING PROVISION. — The department shall allow an appropriate schedule of compliance for a permittee to make upgrades or changes to its facilities that are necessary to meet new water quality requirements. For publicly owned treatment works, schedules of compliance shall be consistent with affordability findings made under section 644.145. For privately owned treatment works, schedules of compliance shall be negotiated with the facilities recognizing their financial capabilities and shall reflect statewide performance expectations. The department shall incorporate new water quality requirements into existing permits at the time of permit renewal unless there are compelling reasons to implement these requirements earlier through permit modifications. All new permit applicants may be required to meet any new water quality standards or classifications prescribed by the commission.

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] **an operating** permit from the commission, subject to such exceptions as the commission may prescribe by rule or regulation. However, no **operating** 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] **It shall be unlawful for any person to construct, build, replace or make major modification to any point source or collection system that is principally designed to convey or discharge human sewage to waters of the state, unless such person obtains a construction permit from the commission, except as provided in this section. The following activities shall be excluded from construction permit requirements:**

(1) Facilities greater than one million gallons per day that are authorized through a local supervised program, and are not receiving any department financial assistance;

(2) All sewer extensions or collection projects that are one thousand feet in length or less with fewer than two lift stations;

(3) All sewer collection projects that are authorized through a local supervised program; and

(4) Any other exclusions the commission may promulgate by rule. However, nothing shall prevent the department from taking action to assure protection of the environment and human health. A construction permit may be required where necessary as determined by the department, including the following:

(a) Substantial deviation from the commission's design standards;

(b) To correct noncompliance;

(c) When an unauthorized discharge has occurred or has the potential to occur; or

(d) To correct a violation of water quality standards. In addition, any point source that proposes to construct an earthen storage structure to hold, convey, contain, store or treat domestic, agricultural, or industrial process wastewater also shall be subject to the construction permit provisions of this subsection. All other construction-related activities at point sources shall be exempt from the construction permit requirements. All activities that are exempted from the construction permit requirement are subject to the following conditions:

a. Any point source system designed to hold, convey, contain, store or treat domestic, agricultural or industrial process wastewater shall be designed by a professional engineer registered in Missouri in accordance with the commission's design rules;

b. Such point source system shall be constructed in accordance with the registered professional engineer's design and plans; and

c. Such point source system may receive a post-construction site inspection by the department prior to receiving operating permit approval. A site inspection may be

performed by the department, upon receipt of a complete operating permit application or submission of an engineer's statement of work complete. A governmental unit may apply to the department for authorization to operate a local supervised program, and the department may authorize such a program. A local supervised program would recognize the governmental unit's engineering capacity and ability to conduct engineering work, supervise construction and maintain compliance with relevant operating permit requirements.

4. Before issuing [a permit to build or enlarge a water contaminant or point source or reissuing any permit] **any permit required by this section**, 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.

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, 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 within thirty days of the department's issuance of the general permit. 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 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. 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 a site-specific operating permit

shall be filed at least one hundred eighty days prior to the expiration of the existing permit. Applications seeking to renew coverage under a general permit shall be submitted at least thirty days prior to the expiration of the general permit, unless the permittee has been notified by the director that an earlier application must be made. General permits may be applied for and issued electronically once made available by the director.

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

12. The director or the commission may require the filing or posting of a bond as a condition for the issuance of permits for construction of temporary or future water treatment facilities 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. (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 permits within sixty days of the department's receipt of an application. For an application seeking coverage under a renewed general permit that does not require an individual public participation process, the director shall issue or deny the permit within sixty days of the director's receipt of the application, or upon issuance of the general permit, whichever is later. In regard to an application seeking coverage under an initial general permit that does not require an individual public participation process, the director shall issue or deny the permit within sixty days of the department's receipt of the application. For an application seeking coverage under a renewed general permit that requires an individual public participation process, the director shall issue or deny the permit within ninety days of the director's receipt of the application, or upon issuance of the general permit, whichever is later. In regard to an application for an initial general permit that requires an individual public participation process, the director shall issue or deny the permit within ninety days of the director's receipt of the 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. 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. 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.

16. 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.

17. Prior to the development of a new general permit or reissuance of a general permit for aquaculture, land disturbance requiring a storm water permit, or reissuance of a general permit under which fifty or more permits were issued under a general permit during the immediately preceding five-year period for a designated category of water contaminant sources, the director shall implement a public participation process complying with the following minimum requirements:

(1) For a new general permit or reissuance of a general permit, a general permit template shall be developed for which comments shall be sought from permittees and other interested persons prior to issuance of the general permit;

(2) The director shall publish notice of his intent to issue a new general permit or reissue a general permit by posting notice on the department's website at least one hundred eighty days before the proposed effective date of the general permit;

(3) The director shall hold a public informational meeting to provide information on anticipated permit conditions and requirements and to receive informal comments from permittees and other interested persons. The director shall include notice of the public informational meeting with the notice of intent to issue a new general permit or reissue a general permit under subdivision (2) of this subsection. The notice of the public informational meeting, including the date, time and location, shall be posted on the department's website at least thirty days in advance of the public meeting. If the meeting is being held for reissuance of a general permit, notice shall also be made by electronic mail to all permittees holding the current general permit which is expiring. Notice to current permittees shall be made at least twenty days prior to the public meeting;

(4) The director shall hold a thirty-day public comment period to receive comments on the general permit template with the thirty-day comment period expiring at least sixty days prior to the effective date of the general permit. Scanned copies of the comments received during the public comment period shall be posted on the department's website within five business days after close of the public comment period;

(5) A revised draft of a general permit template and the director's response to comments submitted during the public comment period shall be posted on the department's website at least forty-five days prior to issuance of the general permit. At least forty-five days prior to issuance of the general permit the department shall notify all persons who submitted comments to the department that these documents have been posted to the department's website;

(6) Upon issuance of a new or renewed general permit, the general permit shall be posted to the department's website.

18. Notices required to be made by the department pursuant to subsection 17 of this section may be made by electronic mail. The department shall not be required to make notice to any permittee or other person who has not provided a current electronic mail address to the department. In the event the department chooses to make material modifications to the general permit before its expiration, the department shall follow the public participation process described in subsection 17 of this section.

19. The provisions of subsection 17 of this section shall become effective beginning January 1, 2013.

644.052. PERMIT TYPES, FEES, AMOUNTS — REQUESTS FOR PERMIT MODIFICATIONS — REQUESTS FOR FEDERAL CLEAN WATER CERTIFICATIONS. — 1. Persons with operating permits or permits by rule issued pursuant to this chapter shall pay fees pursuant to subsections 2 to 8 and 12 to 13 of this section. Persons with a sewer service connection to public sewer systems owned or operated by a city, public sewer district, public water district or other publicly owned treatment works shall pay a permit fee pursuant to subsections 10 and 11 of this section.

2. A privately owned treatment works or an industry which treats only human sewage shall annually pay a fee based upon the design flow of the facility as follows:

- (1) One hundred dollars if the design flow is less than five thousand gallons per day;
- (2) One hundred fifty dollars if the design flow is equal to or greater than five thousand gallons per day but less than six thousand gallons per day;
- (3) One hundred seventy-five dollars if the design flow is equal to or greater than six thousand gallons per day but less than seven thousand gallons per day;
- (4) Two hundred dollars if the design flow is equal to or greater than seven thousand gallons per day but less than eight thousand gallons per day;
- (5) Two hundred twenty-five dollars if the design flow is equal to or greater than eight thousand gallons per day but less than nine thousand gallons per day;
- (6) Two hundred fifty dollars if the design flow is equal to or greater than nine thousand gallons per day but less than ten thousand gallons per day;
- (7) Three hundred seventy-five dollars if the design flow is equal to or greater than ten thousand gallons per day but less than eleven thousand gallons per day;

(8) Four hundred dollars if the design flow is equal to or greater than eleven thousand gallons per day but less than twelve thousand gallons per day;

(9) Four hundred fifty dollars if the design flow is equal to or greater than twelve thousand gallons per day but less than thirteen thousand gallons per day;

(10) Five hundred dollars if the design flow is equal to or greater than thirteen thousand gallons per day but less than fourteen thousand gallons per day;

(11) Five hundred fifty dollars if the design flow is equal to or greater than fourteen thousand gallons per day but less than fifteen thousand gallons per day;

(12) Six hundred dollars if the design flow is equal to or greater than fifteen thousand gallons per day but less than sixteen thousand gallons per day;

(13) Six hundred fifty dollars if the design flow is equal to or greater than sixteen thousand gallons per day but less than seventeen thousand gallons per day;

(14) Eight hundred dollars if the design flow is equal to or greater than seventeen thousand gallons per day but less than twenty thousand gallons per day;

(15) One thousand dollars if the design flow is equal to or greater than twenty thousand gallons per day but less than twenty-three thousand gallons per day;

(16) Two thousand dollars if the design flow is equal to or greater than twenty-three thousand gallons per day but less than twenty-five thousand gallons per day;

(17) Two thousand five hundred dollars if the design flow is equal to or greater than twenty-five thousand gallons per day but less than thirty thousand gallons per day;

(18) Three thousand dollars if the design flow is equal to or greater than thirty thousand gallons per day but less than one million gallons per day; or

(19) Three thousand five hundred dollars if the design flow is equal to or greater than one million gallons per day.

3. Persons who produce industrial process wastewater which requires treatment and who apply for or possess a site-specific permit shall annually pay:

(1) Five thousand dollars if the industry is a class IA animal feeding operation as defined by the commission; or

(2) For facilities issued operating permits based upon categorical standards pursuant to the Federal Clean Water Act and regulations implementing such act:

(a) Three thousand five hundred dollars if the design flow is less than one million gallons per day; or

(b) Five thousand dollars if the design flow is equal to or greater than one million gallons per day.

4. Persons who apply for or possess a site-specific permit solely for industrial storm water shall pay an annual fee of:

(1) One thousand three hundred fifty dollars if the design flow is less than one million gallons per day; or

(2) Two thousand three hundred fifty dollars if the design flow is equal to or greater than one million gallons per day.

5. Persons who produce industrial process wastewater who are not included in subsection 2 or 3 of this section shall annually pay:

(1) One thousand five hundred dollars if the design flow is less than one million gallons per day; or

(2) Two thousand five hundred dollars if the design flow is equal to or greater than one million gallons per day.

6. Persons who apply for or possess a general permit shall pay:

(1) Three hundred dollars for the discharge of storm water from a land disturbance site;

(2) Fifty dollars annually for the operation of a chemical fertilizer or pesticide facility;

(3) One hundred fifty dollars for the operation of an animal feeding operation or a concentrated animal feeding operation;

(4) One hundred fifty dollars annually for new permits for the discharge of process water or storm water potentially contaminated by activities not included in subdivisions (1) to (3) of this subsection. Persons paying fees pursuant to this subdivision with existing general permits on August 27, 2000, and persons paying fees pursuant to this subdivision who receive renewed general permits on the same facility after August 27, 2000, shall pay sixty dollars annually;

(5) Up to two hundred fifty dollars annually for the operation of an aquaculture facility. Requests for modifications to state operating permits on entities that charge a service connection fee pursuant to subsection 10 of this section shall be accompanied by a two hundred dollar fee. The department may waive the fee if it is determined that the necessary modification was either initiated by the department or caused by an error made by the department.

8. Requests for state operating permit modifications other than those described in subsection 7 of this section shall be accompanied by a fee equal to twenty-five percent of the annual operating fee assessed for the facility pursuant to this section. **However, requests for modifications for such operating permits that seek name changes, address changes, or other nonsubstantive changes to the operating permit shall be accompanied by a fee of one hundred dollars.** The department may waive the fee if it is determined that the necessary modification was either initiated by the department or caused by an error made by the department.

9. Persons requesting water quality certifications in accordance with Section 401 of the Federal Clean Water Act shall pay a fee of seventy-five dollars and shall submit the standard application form for a Section 404 permit as administered by the U.S. Army Corps of Engineers or similar information required for other federal licenses and permits, except that the fee is waived for water quality certifications issued and accepted for activities authorized pursuant to a general permit or nationwide permit by the U.S. Army Corps of Engineers.

10. Persons with a direct or indirect sewer service connection to a public sewer system owned or operated by a city, public sewer district, public water district, or other publicly owned treatment works shall pay an annual fee per water service connection as provided in this subsection. Customers served by multiple water service connections shall pay such fee for each water service connection, except that no single facility served by multiple connections shall pay more than a total of seven hundred dollars per year. The fees provided for in this subsection shall be collected by the agency billing such customer for sewer service and remitted to the department. The fees may be collected in monthly, quarterly or annual increments, and shall be remitted to the department no less frequently than annually. The fees collected shall not exceed the amounts specified in this subsection and, except as provided in subsection 11 of this section, shall be collected at the specified amounts unless adjusted by the commission in rules. The annual fees shall not exceed:

(1) For sewer systems that serve more than thirty-five thousand customers, forty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(2) For sewer systems that serve equal to or less than thirty-five thousand but more than twenty thousand customers, fifty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(3) For sewer systems that serve equal to or less than twenty thousand but more than seven thousand customers, sixty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(4) For sewer systems that serve equal to or less than seven thousand but more than one thousand customers, seventy cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(5) For sewer systems that serve equal to or less than one thousand customers, eighty cents per residential customer as defined by the provider of said sewer service until such time as the commission promulgates rules defining the billing procedure;

(6) Three dollars for commercial or industrial customers not served by a public water system as defined in chapter 640;

(7) Three dollars per water service connection for all other customers with water service connections of less than or equal to one inch excluding taps for fire suppression and irrigation systems;

(8) Ten dollars per water service connection for all other customers with water service connections of more than one inch but less than or equal to four inches, excluding taps for fire suppression and irrigation systems;

(9) Twenty-five dollars per water service connection for all other customers with water service connections of more than four inches, excluding taps for fire suppression and irrigation systems.

11. Customers served by any district formed pursuant to the provisions of section 30(a) of article VI of the Missouri Constitution shall pay the fees set forth in subsection 10 of this section according to the following schedule:

(1) From August 28, 2000, through September 30, 2001, customers of any such district shall pay fifty percent of such fees; and

(2) Beginning October 1, 2001, customers of any such districts shall pay one hundred percent of such fees.

12. Persons submitting a notice of intent to operate pursuant to a permit by rule shall pay a filing fee of twenty-five dollars.

13. For any general permit issued to a state agency for highway construction pursuant to subdivision (1) of subsection 6 of this section, a single fee may cover all sites subject to the permit.

644.054. 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 [September 1, 2013] **December 31, 2018**. 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 [September 1, 2013] **December 31, 2018**. 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.

644.057. CLEAN WATER FEE STRUCTURE REVIEW, REQUIREMENTS. — The director of the department of natural resources may conduct a comprehensive review of the clean water fee structure set forth in sections 644.052 and 644.053. The comprehensive review shall include stakeholder meetings in order to solicit stakeholder input from each of the following groups: agriculture, industry, municipalities, public and private wastewater facilities, and the development community. Upon completion of the comprehensive review, the department shall submit proposed changes to the fee structure with stakeholder agreement to the clean water commission. The commission shall, upon receiving the department's recommendations, review such recommendations at the forthcoming regular or special meeting under subsection 3 of section 644.021. The commission shall not take a vote on the clean water fee structure recommendations until the following regular or special meeting. In no case shall the clean water commission adopt or recommend any clean water fee in excess of five thousand dollars. If the commission approves, by vote of two-thirds majority or five of seven commissioners, the clean water fee structure recommendations, the commission shall promulgate by regulation and publish the recommended clean water fee structure no later than October first of the same year. The commission shall file the order of rulemaking for such rule with the joint committee on administrative rules pursuant to sections 536.021 and 536.024 no later than December first of the same year. If such rules are not disapproved by the general assembly in the manner set out below, they shall take effect on January first of the next odd-numbered year and the fee structures set forth in sections 644.052 and 644.053 shall expire upon the effective date of the commission adopted fee structure, contrary to section 644.054. Any regulation promulgated under this subsection shall be deemed to be beyond the scope and authority provided in this subsection, or detrimental to permit applicants, if the general assembly, within the first sixty calendar days of the regular session immediately following the promulgation of such regulation, by concurrent resolution, shall disapprove the fee structure contained in such regulation. If the general assembly so disapproves any regulation promulgated under this subsection, the clean water commission shall continue to use the fee structure set forth in the most recent preceding regulation promulgated under this subsection. This section shall expire on August 28, 2023.

644.062. PROVISIONAL VARIANCES GRANTED, WHEN — PROCEDURE. — 1. The director may grant provisional variances whenever it is determined, upon application of adequate proof, that compliance on a short-term basis with the limitations prescribed in sections 644.006 to 644.141, or rule, standard, requirement, limitation, or order of the director adopted thereto due to conditions beyond reasonable control such as extended elevated temperatures or extreme drought conditions will result in an arbitrary or unreasonable hardship that exists solely because of the regulatory requirement in question and the costs of compliance are substantial and certain. If the hardship complained of consists solely of the need for a reasonable delay in which to correct a violation of sections 644.006 to 644.141, or rule, standard, requirement, limitation, or order of the director, the director shall condition the grant of such variance upon the posting of sufficient performance bond or other security to assure the completion of the work covered by the variance. In granting such provisional variance, the director shall consider the hardship imposed by requiring compliance on a short-term basis and adverse impacts that may result from granting the provisional variance. The director shall exercise wide discretion in weighing the equities involved and the advantages and disadvantages to the applicant and to those affected by water contaminants emitted by the applicant.

2. Any provisional variance granted by the director under this section shall be for a period not to exceed forty-five days. A provisional variance may be extended by the director up to an additional forty-five days, but in no event longer than ninety days in one calendar year.

3. Any person seeking a provisional variance shall file a petition for a variance with the director describing the conditions or circumstances giving rise to the request for relief. There shall be a two hundred fifty dollar filing fee payable to the state of Missouri with each petition for provisional variance. The director shall promptly investigate the petition and shall take action within fourteen days of the request. If the director denies the petition, the person may initiate a proceeding under section 644.061. The director may condition any provisional variance as sections 644.006 to 644.141, or rule, standard, requirement, limitation or order of the director may require.

4. If the director grants a provisional variance under this section, he or she shall promptly notify the petitioner and shall file a copy of the written decision with the commission. The commission must maintain, for public inspection, copies of all provisional variances filed with it by the director.

SECTION 1. ANNUAL STAKEHOLDER MEETING IN EACH PARK DISTRICT — STAKEHOLDERS MAY PETITION DIRECTOR, WHEN — STAKEHOLDER. — 1. Upon public notice, the division of state parks shall once each year hold a stakeholder meeting in each park district.

2. A stakeholder may petition the director of state parks regarding any policy or park issue that has been presented to the relevant facility manager and district supervisor. The director, or his or her designee, shall respond to the stakeholder within fourteen days and may schedule a stakeholder meeting to determine if action is warranted in response to the petition. If a stakeholder meeting occurs, the director shall notify the stakeholder in writing that either no action is warranted or that specific action will be undertaken within thirty days of the meeting. The decision of the director shall be final and not subject to review.

3. For purposes of this section, "stakeholder" shall mean any person with an interest in the subject matter of the petition who has visited the park in the past sixty days.

SECTION 2. JOINT COMMITTEE ESTABLISHED, MEMBERS, DUTIES, REPORT. — 1. There is hereby established a joint committee of the general assembly, which shall be known as the "Joint Committee on Solid Waste Management District Operations", which shall be composed of five members of the senate, with no more than three members of one party, and five members of the house of representatives, with no more than three members of one party. The senate members of the committee shall be appointed by the president pro tempore of the senate and the house members by the speaker of the house of representatives. The committee shall select either a chairperson or co-chairpersons, one of whom shall be a member of the senate and one a member of the house of representatives. A majority of the members shall constitute a quorum. Meetings of the committee may be called at such time and place as the chairperson or chairpersons designate.

2. The committee shall examine solid waste management district operations, including but not limited to the efficiency, efficacy, and reasonableness of costs and expenses of such districts to Missouri taxpayers.

3. The joint committee may hold hearings as it deems advisable and may obtain any input or information necessary to fulfill its obligations. The committee may make reasonable requests for staff assistance from the research and appropriations staffs of the house and senate and the committee on legislative research, as well as the department of natural resources and representatives of solid waste management districts.

4. The joint committee shall prepare a final report, together with its recommendations for any legislative action deemed necessary, for submission to the general assembly by December 31, 2013, at which time the joint committee shall be dissolved.

5. Members of the committee shall receive no compensation but may be reimbursed for reasonable and necessary expenses associated with the performance of their official duties.

[258.020. AGENCY HEADS TO BE ON COUNCIL. — The member agencies shall be represented on the council by the executive head of the agency. The executive head of any member agency may from time to time authorize any member of the agency's staff to represent it on the council and to fully exercise any of the powers and duties of an agency representative.]

[258.030. COUNCIL OFFICERS — APPOINTMENT — DUTIES. — 1. The officers of the council shall be a chairman and vice chairman appointed by the governor from the executive heads of the agencies represented on the council. A chairman may serve more than one term.

2. Duties of the chairman shall be to see that policies and directives of the council are carried out by the executive secretary and to preside at meetings of the council. If the chairman cannot perform the duties, the vice chairman shall assume them.]

[260.379. PERMIT NOT TO BE ISSUED, WHEN — NOTICE TO DEPARTMENT OF CERTAIN CRIMES, PENALTY FOR FAILURE TO NOTIFY — REINSTATEMENT, WHEN. — 1. The department of natural resources shall not issue a permit to any person for the operation of any facility or issue any license to any person under the authority of sections 260.350 to 260.434, if such person has had three or more convictions, which convictions occurred after July 9, 1990, and within any five-year period within the courts of the United States or of any state except Missouri or had two or more convictions within a Missouri court after July 9, 1990, and within any five-year period, for any crimes or criminal acts, an element of which involves restraint of trade, price-fixing, intimidation of the customers of any person or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated under this chapter or similar laws of other states or the federal government; except that convictions for violations by entities purchased or acquired by an applicant or permittee which occurred prior to the purchase or acquisition shall not be included. For the purpose of this section, the term "person" shall include any business organization or entity, successor corporation, partnership or subsidiary of any business organization or entity, and the owners and officers thereof, or the entity submitting the application.

2. The director shall suspend, revoke or not renew the permit or license of any person issued pursuant to sections 260.350 to 260.434, if such person has had two or more convictions in any court of the United States or of any state other than Missouri or two or more convictions within a Missouri court for crimes as specified herein if such conviction occurred after July 9, 1990, and within any five-year period.

3. Any person applying for a permit or license under sections 260.350 to 260.434 shall notify the director of any conviction for any act which would have the effect of limiting competition. Any person with a permit or license shall notify the department of any such conviction within thirty days of the conviction or plea. Failure to notify the director is a class D felony and subject to a fine of one thousand dollars per day for each day unreported.

4. Provided that after a period of five years after a permit has been revoked under the provisions of this section, the person, firm or corporation affected may apply for rehabilitation and reinstatement to the director of the department. The department shall promulgate the necessary rules and regulations for rehabilitation and reinstatement. The time period for same shall not exceed five years.]

[260.434. PROPOSED SITES, HAZARDOUS WASTE FACILITIES — DEPARTMENT TO EXAMINE TRANSPORTATION ROUTES—DEPARTMENT TO EXAMINE LOCAL GOVERNMENT'S CAPABILITY TO RESPOND TO EMERGENCY — INTERAGENCY AGREEMENT. — 1. The department shall assess the transportation system serving a proposed site for a new hazardous waste resource recovery, treatment or disposal facility as a part of its review of the application for a permit. The department shall examine the transportation route or routes to ensure that the design and maintenance of such route or routes provides adequate safety for the public using or living near the route or routes. The department may designate or prohibit specific routes, limit use of approved routes during certain time periods or impose other reasonable restrictions upon the transportation of hazardous waste to or from the facility.

2. The department shall review the capability of local governments near a proposed site to respond to an emergency involving the transportation of hazardous waste or an emergency at the hazardous waste resource recovery, treatment or disposal facility when it reviews an application for a permit. The department shall reassess that capability whenever the operator proposes recovering, treating or disposing of a hazardous waste which is substantially more toxic, corrosive, ignitable or reactive than those wastes approved under the current permit. The department may require the operator to provide supplemental emergency response capability to ensure public safety.

3. The department shall enter into an interagency agreement with the department of transportation and the department of public safety to permit the sharing of information and to assign responsibility for performing the assessment required in this section.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure an operational clean water fee structure, and to ensure public safety, the enactment of sections 640.080 and 644.057 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of sections 640.080 and 644.057 of this act shall be in full force and effect upon its passage and approval.

Vetoed July 12, 2013

Overridden September 11, 2013

HB 1035 [CCS#2 SCS HCS HB 1035]

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 33.080, 67.457, 67.463, 67.469, 71.011, 99.845, 137.073, 137.090, 137.095, 137.115, 137.720, 138.431, 238.272, 360.045, and 374.150, RSMo, and to enact in lieu thereof seventeen new sections relating to political subdivisions, with an emergency clause for certain sections and an existing penalty provision.

SECTION

- A. Enacting clause.
 - 33.080. Receipts deposited when, appropriated when — funds lapse when, exceptions, report — violation, a misdemeanor — transfer to rebuild damaged infrastructure fund.
 - 33.295. Program established, purpose — fund created, use of moneys — expiration date.
 - 67.457. Establishment of neighborhood improvement districts — procedure — notice of elections, contents — alternatives, petition, contents — maintenance costs, assessment — recording requirements.
 - 67.463. Public hearing, procedure — apportionment of costs — special assessments, notice — payment and collection of assessments.
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- 67.469. Assessment treated as tax lien, payable upon foreclosure.
- 71.011. Transfer of certain land between municipalities, when — procedure — exception — concurrent detachment and annexation, procedure.
- 96.229. Charter hospitals, election to be governed by nonprofit corporation law, procedure.
- 99.845. Tax increment financing adoption — division of ad valorem taxes — payments in lieu of tax, deposit, inclusion and exclusion of current equalized assessed valuation for certain purposes, when — other taxes included, amount — supplemental tax increment financing fund established, disbursement.
- 137.073. Definitions — revision of prior levy, when, procedure — calculation of state aid for public schools, taxing authority's duties.
- 137.090. Tangible personal property to be assessed in county of owner's residence — exceptions — apportionment of assessment of tractors and trailers..
- 137.095. Corporate property, where taxed — tractors and trailers.
- 137.115. Real and personal property, assessment — maintenance plan — assessor may mail forms for personal property — classes of property, assessment — physical inspection required, when, procedure.
- 137.720. Percentage of ad valorem property tax collections to be deducted for deposit in county assessment fund — additional deductions (St. Louis City and all counties).
- 138.431. Hearing officers of tax commission to hear appeals, when, procedure — appeal of hearing officer's decision, how.
- 238.272. Audit authorized, when — costs, payment of.
- 360.045. Powers of authority — transfer of moneys to rebuild damaged infrastructure fund.
- 374.150. Fees paid to director of revenue, exception — department of insurance, financial institutions and professional registration dedicated fund established, purpose — lapse into general revenue, when — annual transfer of moneys to general revenue.
 - B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 33.080, 67.457, 67.463, 67.469, 71.011, 99.845, 137.073, 137.090, 137.095, 137.115, 137.720, 138.431, 238.272, 360.045, and 374.150, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 33.080, 33.295, 67.457, 67.463, 67.469, 71.011, 96.229, 99.845, 137.073, 137.090, 137.095, 137.115, 137.720, 138.431, 238.272, 360.045, and 374.150, to read as follows:

33.080. RECEIPTS DEPOSITED WHEN, APPROPRIATED WHEN — FUNDS LAPSE WHEN, EXCEPTIONS, REPORT — VIOLATION, A MISDEMEANOR — TRANSFER TO REBUILD DAMAGED INFRASTRUCTURE FUND. — **1.** All fees, funds and moneys from whatsoever source received by any department, board, bureau, commission, institution, official or agency of the state government by virtue of any law or rule or regulation made in accordance with any law, excluding all funds received and disbursed by the state on behalf of counties and cities, towns and villages shall, by the official authorized to receive same, and at stated intervals of not more than thirty days, be placed in the state treasury to the credit of the particular purpose or fund for which collected, and shall be subject to appropriation by the general assembly for the particular purpose or fund for which collected during the biennium in which collected and appropriated. The unexpended balance remaining in all such funds (except such unexpended balance as may remain in any fund authorized, collected and expended by virtue of the provisions of the constitution of this state) shall at the end of the biennium and after all warrants on same have been discharged and the appropriation thereof has lapsed, be transferred and placed to the credit of the [ordinary] **general** revenue fund of the state by the state treasurer. Any official or any person who shall willfully fail to comply with any of the provisions of this section, and any person who shall willfully violate any provision hereof, shall be deemed guilty of a misdemeanor; provided, that all such money received by the curators of the University of Missouri except those funds required by law or by instrument granting the same to be paid into the seminary fund of the state, is excepted herefrom, and in the case of other state educational institutions there is excepted herefrom, gifts or trust funds from whatever source; appropriations; gifts or grants from the federal government, private organizations and individuals; funds for or from student activities; farm or housing activities; and other funds from which the whole or some part thereof may be liable to be repaid to the person contributing the same; and

hospital fees. All of the above excepted funds shall be reported in detail quarterly to the governor and biennially to the general assembly.

2. Notwithstanding any provision of law to the contrary concerning the transfer of funds, ten million dollars shall be transferred from the insurance dedicated fund established under section 374.150, and placed to the credit of the rebuild damaged infrastructure fund created in section 33.295 on July 1, 2013.

33.295. PROGRAM ESTABLISHED, PURPOSE — FUND CREATED, USE OF MONEYS — EXPIRATION DATE. — 1. There is hereby established the "Rebuild Damaged Infrastructure Program" to provide funding for the reconstruction, replacement, or renovation of, or repair to, any infrastructure damaged by a presidentially declared natural disaster, including, but not limited to, the physical components of interrelated systems providing essential commodities and services to the public which includes transportation, communication, sewage, water, and electric systems as well as public elementary and secondary school buildings.

2. There is hereby created in the state treasury the "Rebuild Damaged Infrastructure Fund", which shall consist of money appropriated or collected under this section. Any amount to be transferred to the fund on July 1, 2013, pursuant to subsection 2 of section 33.080 and subsection 2 of section 360.045, in excess of fifteen million dollars shall instead be transferred to the state general revenue fund. 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. Upon appropriation, money in the fund shall be used solely for the purposes of this section. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

3. The provisions of this section shall expire on June 30, 2014.

67.457. ESTABLISHMENT OF NEIGHBORHOOD IMPROVEMENT DISTRICTS — PROCEDURE — NOTICE OF ELECTIONS, CONTENTS — ALTERNATIVES, PETITION, CONTENTS — MAINTENANCE COSTS, ASSESSMENT — RECORDING REQUIREMENTS. — 1. To establish a neighborhood improvement district, the governing body of any city or county shall comply with either of the procedures described in subsection 2 or 3 of this section.

2. The governing body of any city or county proposing to create a neighborhood improvement district may by resolution submit the question of creating such district to all qualified voters residing within such district at a general or special election called for that purpose. Such resolution shall set forth the project name for the proposed improvement, the general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed neighborhood improvement district to be assessed, and the proposed method or methods of assessment of real property within the district, including any provision for the annual assessment of maintenance costs of the improvement in each year during the term of the bonds issued for the original improvement and after such bonds are paid in full. The governing body of the city or county may create a neighborhood improvement district when the question of creating such district has been approved by the vote of the percentage of electors within such district voting thereon that is equal to the percentage of voter approval required for the issuance of general obligation bonds of such city or county under article VI, section 26 of the constitution of this state. The notice of election containing the question of creating a neighborhood improvement district shall contain the project name for the proposed improvement, the general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed neighborhood improvement district to be assessed, the proposed method or methods of assessment of real property within the district, including any provision for the annual assessment of maintenance costs of the improvement in each year after the bonds

issued for the original improvement are paid in full, and a statement that the final cost of such improvement assessed against real property within the district and the amount of general obligation bonds issued therefor shall not exceed the estimated cost of such improvement, as stated in such notice, by more than twenty-five percent, and that the annual assessment for maintenance costs of the improvements shall not exceed the estimated annual maintenance cost, as stated in such notice, by more than twenty-five percent. The ballot upon which the question of creating a neighborhood improvement district is submitted to the qualified voters residing within the proposed district shall contain a question in substantially the following form:

Shall (name of city or county) be authorized to create a neighborhood improvement district proposed for the (project name for the proposed improvement) and incur indebtedness and issue general obligation bonds to pay for all or part of the cost of public improvements within such district, the cost of all indebtedness so incurred to be assessed by the governing body of the (city or county) on the real property benefitted by such improvements for a period of years, and, if included in the resolution, an assessment in each year thereafter with the proceeds thereof used solely for maintenance of the improvement?

3. As an alternative to the procedure described in subsection 2 of this section, the governing body of a city or county may create a neighborhood improvement district when a proper petition has been signed by the owners of record of at least two-thirds by area of all real property located within such proposed district. Each owner of record of real property located in the proposed district is allowed one signature. Any person, corporation, or limited liability partnership owning more than one parcel of land located in such proposed district shall be allowed only one signature on such petition. The petition, in order to become effective, shall be filed with the city clerk or county clerk. A proper petition for the creation of a neighborhood improvement district shall set forth the project name for the proposed improvement, the general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed neighborhood improvement district to be assessed, the proposed method or methods of assessment of real property within the district, including any provision for the annual assessment of maintenance costs of the improvement in each year during the term of the bonds issued for the original improvement and after such bonds are paid in full, a notice that the names of the signers may not be withdrawn later than seven days after the petition is filed with the city clerk or county clerk, and a notice that the final cost of such improvement assessed against real property within the district and the amount of general obligation bonds issued therefor shall not exceed the estimated cost of such improvement, as stated in such petition, by more than twenty-five percent, and that the annual assessment for maintenance costs of the improvements shall not exceed the estimated annual maintenance cost, as stated in such petition, by more than twenty-five percent.

4. Upon receiving the requisite voter approval at an election or upon the filing of a proper petition with the city clerk or county clerk, the governing body may by resolution or ordinance determine the advisability of the improvement and may order that the district be established and that preliminary plans and specifications for the improvement be made. Such resolution or ordinance shall state and make findings as to the project name for the proposed improvement, the nature of the improvement, the estimated cost of such improvement, the boundaries of the neighborhood improvement district to be assessed, the proposed method or methods of assessment of real property within the district, including any provision for the annual assessment of maintenance costs of the improvement in each year after the bonds issued for the original improvement are paid in full, and shall also state that the final cost of such improvement assessed against the real property within the neighborhood improvement district and the amount of general obligation bonds issued therefor shall not, without a new election or petition, exceed the estimated cost of such improvement by more than twenty-five percent.

5. The boundaries of the proposed district shall be described by metes and bounds, streets or other sufficiently specific description. The area of the neighborhood improvement district

finally determined by the governing body of the city or county to be assessed may be less than, but shall not exceed, the total area comprising such district.

6. In any neighborhood improvement district organized prior to August 28, 1994, an assessment may be levied and collected after the original period approved for assessment of property within the district has expired, with the proceeds thereof used solely for maintenance of the improvement, if the residents of the neighborhood improvement district either vote to assess real property within the district for the maintenance costs in the manner prescribed in subsection 2 of this section or if the owners of two-thirds of the area of all real property located within the district sign a petition for such purpose in the same manner as prescribed in subsection 3 of this section.

7. Prior to any assessment hereafter being levied against any real property within any neighborhood improvement district, and prior to any lien enforceable under either chapter 140 or 141 being imposed after August 28, 2013, against any real property within a neighborhood improvement district, the clerk of the governing body establishing the neighborhood improvement district shall cause to be recorded with the recorder of deeds for the county in which any portion of the neighborhood improvement district is located, a document conforming to the provisions of sections 59.310 and 59.313, and which shall contain at least the following information:

(1) Each owner of record of real property located within the neighborhood improvement district at the time of recording, who shall be identified in the document as grantors and indexed by the recorder pursuant to section 59.440;

(2) The governing body establishing the neighborhood improvement district and the title of any official or agency responsible for collecting or enforcing any assessments, who shall be identified in the document as grantees and so indexed by the recorder pursuant to section 59.440;

(3) The legal description of the property within the neighborhood improvement district which may either be the metes and bounds description authorized in subsection 5 of this section or the legal description of each lot or parcel within the neighborhood improvement district; and

(4) The identifying number of the resolution or ordinance creating the neighborhood improvement district, or a copy of such resolution or ordinance.

67.463. PUBLIC HEARING, PROCEDURE — APPORTIONMENT OF COSTS — SPECIAL ASSESSMENTS, NOTICE — PAYMENT AND COLLECTION OF ASSESSMENTS. — 1. At the hearing to consider the proposed improvements and assessments, the governing body shall hear and pass upon all objections to the proposed improvements and proposed assessments, if any, and may amend the proposed improvements, and the plans and specifications therefor, or assessments as to any property, and thereupon by ordinance or resolution the governing body of the city or county shall order that the improvement be made and direct that financing for the cost thereof be obtained as provided in sections 67.453 to 67.475.

2. After construction of the improvement has been completed in accordance with the plans and specifications therefor, the governing body shall compute the final costs of the improvement and apportion the costs among the property benefitted by such improvement in such equitable manner as the governing body shall determine, charging each parcel of property with its proportionate share of the costs, and by resolution or ordinance, assess the final cost of the improvement or the amount of general obligation bonds issued or to be issued therefor as special assessments against the property described in the assessment roll.

3. After the passage or adoption of the ordinance or resolution assessing the special assessments, the city clerk or county clerk shall mail a notice to each property owner within the district which sets forth a description of each parcel of real property to be assessed which is owned by such owner, the special assessment assigned to such property, and a statement that the property owner may pay such assessment in full, together with interest accrued thereon from the

effective date of such ordinance or resolution, on or before a specified date determined by the effective date of the ordinance or resolution, or may pay such assessment in annual installments as provided in subsection 4 of this section.

4. The special assessments shall be assessed upon the property included therein concurrent with general property taxes, and shall be payable in substantially equal annual installments for a duration stated in the ballot measure prescribed in subsection 2 of section 67.457 or in the petition prescribed in subsection 3 of section 67.457, and, if authorized, an assessment in each year thereafter levied and collected in the same manner with the proceeds thereof used solely for maintenance of the improvement, taking into account such assessments and interest thereon, as the governing body determines. The first installment shall be payable after the first collection of general property taxes following the adoption of the assessment ordinance or resolution unless such ordinance or resolution was adopted and certified too late to permit its collection at such time. All assessments shall bear interest at such rate as the governing body determines, not to exceed the rate permitted for bonds by section 108.170. Interest on the assessment between the effective date of the ordinance or resolution assessing the assessment and the date the first installment is payable shall be added to the first installment. The interest for one year on all unpaid installments shall be added to each subsequent installment until paid. In the case of a special assessment by a city, all of the installments, together with the interest accrued or to accrue thereon, may be certified by the city clerk to the county clerk in one instrument at the same time. Such certification shall be good for all of the installments, and the interest thereon payable as special assessments.

5. Special assessments shall be collected and paid over to the city treasurer or county treasurer in the same manner as taxes of the city or county are collected and paid. In any **county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants and 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 collect a fee as prescribed by section 52.260 for collection of assessments under this section.

67.469. ASSESSMENT TREATED AS TAX LIEN, PAYABLE UPON FORECLOSURE. — A special assessment authorized under the provisions of sections 67.453 to 67.475 shall be a lien, from the date of the assessment, on the property against which it is assessed on behalf of the city or county assessing the same to the same extent as a tax upon real property. The lien may be foreclosed in the same manner as a tax upon real property by land tax sale pursuant to chapter 140 or [by judicial foreclosure proceeding], **if applicable to that county, chapter 141, or** at the option of the governing body, **by judicial foreclosure proceeding.** Upon the foreclosure of any such lien, whether by land tax sale or by judicial foreclosure proceeding, the entire remaining assessment may become due and payable and may be recoverable in such foreclosure proceeding at the option of the governing body.

71.011. TRANSFER OF CERTAIN LAND BETWEEN MUNICIPALITIES, WHEN — PROCEDURE — EXCEPTION — CONCURRENT DETACHMENT AND ANNEXATION, PROCEDURE. — 1. Except as provided in subsection 2 of this section, property of a municipality which abuts another municipality may be concurrently detached from one municipality and annexed by the other municipality by the enactment by the governing bodies of each municipality of an ordinance describing by metes and bounds the property, declaring the property so described to be concurrently detached and annexed, and stating the reasons for and the purposes to be accomplished by the detachment and annexation. One certified copy of each ordinance shall be filed with the county clerk, with the county assessor, with the county recorder of deeds, and with the clerk of the circuit court of the county in which the property is located, whereupon the concurrent detachment and annexation shall be complete and final. Thereafter all courts of this state shall take notice of the limits of both municipalities as changed by the ordinances. No

declaratory judgment or election shall be required for any concurrent detachment and annexation permitted by this section if there are no residents living in the area or if there are residents in the area and they be notified of the annexation and do not object within sixty days.

2. In a county of the first classification with a charter form of government containing all or a portion of a city with a population of at least three hundred thousand inhabitants[,]:

(1) Unimproved property of a municipality which overlaps another municipality may be concurrently detached from one municipality and annexed by the other municipality by the enactment by the governing body of the receiving municipality of an ordinance describing by metes and bounds the property, declaring the property so described to be detached and annexed, and stating the reasons for and the purposes to be accomplished by the detachment and annexation. A copy of said ordinance shall be mailed to the city clerk of the contributing municipality, which shall have thirty days from receipt of said notice to pass an ordinance disapproving the change of boundary. If such ordinance is not passed within thirty days, the change shall be effective and one certified copy of the ordinance shall be filed with the county clerk, with the county assessor, with the county recorder of deeds, and with the clerk of the circuit court of the county in which the property is located, whereupon the concurrent detachment and annexation shall be complete and final. Thereafter all courts of this state shall take notice of the limits of both municipalities as changed by the ordinances. No declaratory judgment or election shall be required for any concurrent detachment and annexation permitted by this section if the landowners in the area are notified and do not object within sixty days; or

(2) **An island of unincorporated area within a municipality, which is contiguous to more than one municipality or contiguous to the Missouri River and the Blue River, may be annexed by an abutting municipality by the enactment by the governing body of the municipality of an ordinance describing the metes and bounds of the property, declaring the property so described to be annexed, and stating the reasons for and the purposes to be accomplished by the annexation. All recording shall be accomplished in the same manner as set out in subdivision (1) of this subsection and shall be effective unless the governing body of the county passes an ordinance within thirty days disapproving the annexation. No declaratory judgment or election shall be required for any annexation permitted by this subdivision. Any annexation permitted by this subdivision shall exclude any property within the unincorporated area when such property has been owned by the same family for at least sixty consecutive years and consists of ten acres or more. The line of ownership from the original settler or buyer may be through children, grandchildren, siblings, nephews, or nieces, including through marriage or adoption.**

96.229. CHARTER HOSPITALS, ELECTION TO BE GOVERNED BY NONPROFIT CORPORATION LAW, PROCEDURE. — 1. Notwithstanding subsection 5 of section 96.150 regarding the lease of substantially all of a hospital where the board of trustees is lessor, a city in which a hospital is located that:

(1) Is organized and operated under this chapter;

(2) Has not accepted appropriated funds from the city during the prior twenty years; and

(3) Is licensed by the department of health and senior services for two hundred beds or more pursuant to sections 197.010 to 197.120, shall not have authority to sell, lease, or otherwise transfer all or substantially all of the property from a hospital organized under this chapter, both real and personal, except in accordance with this section.

2. Upon filing with the city clerk of a resolution adopted by no less than two-thirds of the incumbent members of the board of trustees to sell, lease, or otherwise transfer all or substantially all of the hospital property, both real and personal, for reasons specified in the resolution, the clerk shall present the resolution to the city council. If a majority of the incumbent members of the city council determine that sale, lease, or other transfer of

the hospital property is desirable, the city council shall submit to the voters of the city the question in substantially the following form:

"Shall the city council of, Missouri and the board of trustees of hospital be authorized to sell (or lease or otherwise transfer) the property, real and personal, of hospital as approved by, and in accordance with, the resolution of the board of trustees authorizing such sale (or lease or transfer)?" A majority of the votes cast on such question shall be required in order to approve and authorize such sale, lease or other transfer. If the question receives less than the required majority, then the city council and the board of trustees shall have no power to sell, lease or otherwise transfer the property, real and personal, of the hospital unless and until the city council has submitted another question to authorize such sale, lease or transfer authorized under this section and such question is approved by the required majority of the qualified voters voting thereon. However, in no event shall a question under this section be submitted to the voters sooner than twelve months from the date of the last question under this section and after the adoption of another resolution by no less than two-thirds of the board of trustees and a subsequent vote by a majority of the city council to again submit the question to the voters.

3. Upon passage of such question by the voters, the board of trustees shall sell and dispose of such property, or lease or transfer such property, in the manner proposed by the board of trustees. The deed of the board of trustees, duly authorized by the board of trustees and duly acknowledged and recorded, shall be sufficient to convey to the purchaser all the rights, title, interest, and estate in the hospital property.

4. No sale, lease, or other transfer of such hospital property shall be authorized or effective unless such transaction provides sufficient proceeds to be available to be applied to the payment of all interest and principal of any outstanding valid indebtedness incurred for purchase of the site or construction of the hospital, or for any repairs, alterations, improvements, or additions thereto, or for operation of the hospital.

5. Assets donated to the hospital pursuant to section 96.210 shall be used to provide health care services in the city and in the geographic region previously served by the hospital, except as otherwise prescribed by the terms of the deed, gift, devise, or bequest.

99.845. TAX INCREMENT FINANCING ADOPTION — DIVISION OF AD VALOREM TAXES — PAYMENTS IN LIEU OF TAX, DEPOSIT, INCLUSION AND EXCLUSION OF CURRENT EQUALIZED ASSESSED VALUATION FOR CERTAIN PURPOSES, WHEN — OTHER TAXES INCLUDED, AMOUNT — SUPPLEMENTAL TAX INCREMENT FINANCING FUND ESTABLISHED, DISBURSEMENT. — 1. A municipality, either at the time a redevelopment project is approved or, in the event a municipality has undertaken acts establishing a redevelopment plan and redevelopment project and has designated a redevelopment area after the passage and approval of sections 99.800 to 99.865 but prior to August 13, 1982, which acts are in conformance with the procedures of sections 99.800 to 99.865, may adopt tax increment allocation financing by passing an ordinance providing that after the total equalized assessed valuation of the taxable real property in a redevelopment project exceeds the certified total initial equalized assessed valuation of the taxable real property in the redevelopment project, the ad valorem taxes, and payments in lieu of taxes, if any, arising from the levies upon taxable real property in such redevelopment project by taxing districts and tax rates determined in the manner provided in subsection 2 of section 99.855 each year after the effective date of the ordinance until redevelopment costs have been paid shall be divided as follows:

(1) That portion of taxes, penalties and interest levied upon each taxable lot, block, tract, or parcel of real property which is attributable to the initial equalized assessed value of each such taxable lot, block, tract, or parcel of real property in the area selected for the redevelopment project shall be allocated to and, when collected, shall be paid by the county collector to the

respective affected taxing districts in the manner required by law in the absence of the adoption of tax increment allocation financing;

(2) (a) Payments in lieu of taxes attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property in the area selected for the redevelopment project and any applicable penalty and interest over and above the initial equalized assessed value of each such unit of property in the area selected for the redevelopment project shall be allocated to and, when collected, shall be paid to the municipal treasurer who shall deposit such payment in lieu of taxes into a special fund called the "Special Allocation Fund" of the municipality for the purpose of paying redevelopment costs and obligations incurred in the payment thereof. Payments in lieu of taxes which are due and owing shall constitute a lien against the real estate of the redevelopment project from which they are derived and shall be collected in the same manner as the real property tax, including the assessment of penalties and interest where applicable. The municipality may, in the ordinance, pledge the funds in the special allocation fund for the payment of such costs and obligations and provide for the collection of payments in lieu of taxes, the lien of which may be foreclosed in the same manner as a special assessment lien as provided in section 88.861. No part of the current equalized assessed valuation of each lot, block, tract, or parcel of property in the area selected for the redevelopment project attributable to any increase above the total initial equalized assessed value of such properties shall be used in calculating the general state school aid formula provided for in section 163.031 until such time as all redevelopment costs have been paid as provided for in this section and section 99.850;

(b) Notwithstanding any provisions of this section to the contrary, for purposes of determining the limitation on indebtedness of local government pursuant to article VI, section 26(b) of the Missouri Constitution, the current equalized assessed value of the property in an area selected for redevelopment attributable to the increase above the total initial equalized assessed valuation shall be included in the value of taxable tangible property as shown on the last completed assessment for state or county purposes;

(c) The county assessor shall include the current assessed value of all property within the taxing district in the aggregate valuation of assessed property entered upon the assessor's book and verified pursuant to section 137.245, and such value shall be utilized for the purpose of the debt limitation on local government pursuant to article VI, section 26(b) of the Missouri Constitution;

(3) For purposes of this section, "levies upon taxable real property in such redevelopment project by taxing districts" shall not include the blind pension fund tax levied under the authority of article III, section 38(b) of the Missouri Constitution, or the merchants' and manufacturers' inventory replacement tax levied under the authority of subsection 2 of section 6 of article X of the Missouri Constitution, except in redevelopment project areas in which tax increment financing has been adopted by ordinance pursuant to a plan approved by vote of the governing body of the municipality taken after August 13, 1982, and before January 1, 1998.

2. In addition to the payments in lieu of taxes described in subdivision (2) of subsection 1 of this section, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after July 12, 1990, and prior to August 31, 1991, fifty percent of the total additional revenue from taxes, penalties and interest imposed by the municipality, or other taxing districts, which are generated by economic activities within the area of the redevelopment project over the amount of such taxes generated by economic activities within the area of the redevelopment project in the calendar year prior to the adoption of the redevelopment project by ordinance, while tax increment financing remains in effect, but excluding taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to section 70.500, licenses, fees or special assessments other than payments in lieu of taxes and any penalty and interest thereon, or, effective January 1, 1998, taxes levied pursuant to section 94.660, for the purpose of public transportation, shall be allocated to, and paid by the local political subdivision collecting officer to the treasurer or other designated financial officer of the

municipality, who shall deposit such funds in a separate segregated account within the special allocation fund. Any provision of an agreement, contract or covenant entered into prior to July 12, 1990, between a municipality and any other political subdivision which provides for an appropriation of other municipal revenues to the special allocation fund shall be and remain enforceable.

3. In addition to the payments in lieu of taxes described in subdivision (2) of subsection 1 of this section, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after August 31, 1991, fifty percent of the total additional revenue from taxes, penalties and interest which are imposed by the municipality or other taxing districts, and which are generated by economic activities within the area of the redevelopment project over the amount of such taxes generated by economic activities within the area of the redevelopment project in the calendar year prior to the adoption of the redevelopment project by ordinance, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to section 70.500, taxes levied for the purpose of public transportation pursuant to section 94.660, **taxes imposed on sales pursuant to subsection 2 of section 67.1712 for the purpose of operating and maintaining a metropolitan park and recreation district**, licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, [or] any sales tax imposed by a county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, for the purpose of sports stadium improvement or levied by such county under section 238.410 for the purpose of the county transit authority operating transportation facilities, **or for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after August 28, 2013, taxes imposed on sales pursuant to section 650.399 for the purpose of emergency communication systems**, shall be allocated to, and paid by the local political subdivision collecting officer to the treasurer or other designated financial officer of the municipality, who shall deposit such funds in a separate segregated account within the special allocation fund.

4. Beginning January 1, 1998, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance and which have complied with subsections 4 to 12 of this section, in addition to the payments in lieu of taxes and economic activity taxes described in subsections 1, 2 and 3 of this section, up to fifty percent of the new state revenues, as defined in subsection 8 of this section, estimated for the businesses within the project area and identified by the municipality in the application required by subsection 10 of this section, over and above the amount of such taxes reported by businesses within the project area as identified by the municipality in their application prior to the approval of the redevelopment project by ordinance, while tax increment financing remains in effect, may be available for appropriation by the general assembly as provided in subsection 10 of this section to the department of economic development supplemental tax increment financing fund, from the general revenue fund, for distribution to the treasurer or other designated financial officer of the municipality with approved plans or projects.

5. The treasurer or other designated financial officer of the municipality with approved plans or projects shall deposit such funds in a separate segregated account within the special allocation fund established pursuant to section 99.805.

6. No transfer from the general revenue fund to the Missouri supplemental tax increment financing fund shall be made unless an appropriation is made from the general revenue fund for that purpose. No municipality shall commit any state revenues prior to an appropriation being made for that project. For all redevelopment plans or projects adopted or approved after December 23, 1997, appropriations from the new state revenues shall not be distributed from the Missouri supplemental tax increment financing fund into the special allocation fund unless the municipality's redevelopment plan ensures that one hundred percent of payments in lieu of taxes and fifty percent of economic activity taxes generated by the project shall be used for eligible

redevelopment project costs while tax increment financing remains in effect. This account shall be separate from the account into which payments in lieu of taxes are deposited, and separate from the account into which economic activity taxes are deposited.

7. In order for the redevelopment plan or project to be eligible to receive the revenue described in subsection 4 of this section, the municipality shall comply with the requirements of subsection 10 of this section prior to the time the project or plan is adopted or approved by ordinance. The director of the department of economic development and the commissioner of the office of administration may waive the requirement that the municipality's application be submitted prior to the redevelopment plan's or project's adoption or the redevelopment plan's or project's approval by ordinance.

8. For purposes of this section, "new state revenues" means:

(1) The incremental increase in the general revenue portion of state sales tax revenues received pursuant to section 144.020, excluding sales taxes that are constitutionally dedicated, taxes deposited to the school district trust fund in accordance with section 144.701, sales and use taxes on motor vehicles, trailers, boats and outboard motors and future sales taxes earmarked by law. In no event shall the incremental increase include any amounts attributable to retail sales unless the municipality or authority has proven to the Missouri development finance board and the department of economic development and such entities have made a finding that the sales tax increment attributable to retail sales is from new sources which did not exist in the state during the baseline year. The incremental increase in the general revenue portion of state sales tax revenues for an existing or relocated facility shall be the amount that current state sales tax revenue exceeds the state sales tax revenue in the base year as stated in the redevelopment plan as provided in subsection 10 of this section; or

(2) The state income tax withheld on behalf of new employees by the employer pursuant to section 143.221 at the business located within the project as identified by the municipality. The state income tax withholding allowed by this section shall be the municipality's estimate of the amount of state income tax withheld by the employer within the redevelopment area for new employees who fill new jobs directly created by the tax increment financing project.

9. Subsection 4 of this section shall apply only to blighted areas located in enterprise zones, pursuant to sections 135.200 to 135.256, blighted areas located in federal empowerment zones, or to blighted areas located in central business districts or urban core areas of cities which districts or urban core areas at the time of approval of the project by ordinance, provided that the enterprise zones, federal empowerment zones or blighted areas contained one or more buildings at least fifty years old; and

(1) Suffered from generally declining population or property taxes over the twenty-year period immediately preceding the area's designation as a project area by ordinance; or

(2) Was a historic hotel located in a county of the first classification without a charter form of government with a population according to the most recent federal decennial census in excess of one hundred fifty thousand and containing a portion of a city with a population according to the most recent federal decennial census in excess of three hundred fifty thousand.

10. The initial appropriation of up to fifty percent of the new state revenues authorized pursuant to subsections 4 and 5 of this section shall not be made to or distributed by the department of economic development to a municipality until all of the following conditions have been satisfied:

(1) The director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee have approved a tax increment financing application made by the municipality for the appropriation of the new state revenues. The municipality shall include in the application the following items in addition to the items in section 99.810:

(a) The tax increment financing district or redevelopment area, including the businesses identified within the redevelopment area;

- (b) The base year of state sales tax revenues or the base year of state income tax withheld on behalf of existing employees, reported by existing businesses within the project area prior to approval of the redevelopment project;
 - (c) The estimate of the incremental increase in the general revenue portion of state sales tax revenue or the estimate for the state income tax withheld by the employer on behalf of new employees expected to fill new jobs created within the redevelopment area after redevelopment;
 - (d) The official statement of any bond issue pursuant to this subsection after December 23, 1997;
 - (e) An affidavit that is signed by the developer or developers attesting that the provisions of subdivision (1) of subsection 1 of section 99.810 have been met and specifying that the redevelopment area would not be reasonably anticipated to be developed without the appropriation of the new state revenues;
 - (f) The cost-benefit analysis required by section 99.810 includes a study of the fiscal impact on the state of Missouri; and
 - (g) The statement of election between the use of the incremental increase of the general revenue portion of the state sales tax revenues or the state income tax withheld by employers on behalf of new employees who fill new jobs created in the redevelopment area;
 - (h) The name, street and mailing address, and phone number of the mayor or chief executive officer of the municipality;
 - (i) The street address of the development site;
 - (j) The three-digit North American Industry Classification System number or numbers characterizing the development project;
 - (k) The estimated development project costs;
 - (l) The anticipated sources of funds to pay such development project costs;
 - (m) Evidence of the commitments to finance such development project costs;
 - (n) The anticipated type and term of the sources of funds to pay such development project costs;
 - (o) The anticipated type and terms of the obligations to be issued;
 - (p) The most recent equalized assessed valuation of the property within the development project area;
 - (q) An estimate as to the equalized assessed valuation after the development project area is developed in accordance with a development plan;
 - (r) The general land uses to apply in the development area;
 - (s) The total number of individuals employed in the development area, broken down by full-time, part-time, and temporary positions;
 - (t) The total number of full-time equivalent positions in the development area;
 - (u) The current gross wages, state income tax withholdings, and federal income tax withholdings for individuals employed in the development area;
 - (v) The total number of individuals employed in this state by the corporate parent of any business benefitting from public expenditures in the development area, and all subsidiaries thereof, as of December thirty-first of the prior fiscal year, broken down by full-time, part-time, and temporary positions;
 - (w) The number of new jobs to be created by any business benefitting from public expenditures in the development area, broken down by full-time, part-time, and temporary positions;
 - (x) The average hourly wage to be paid to all current and new employees at the project site, broken down by full-time, part-time, and temporary positions;
 - (y) For project sites located in a metropolitan statistical area, as defined by the federal Office of Management and Budget, the average hourly wage paid to nonmanagerial employees in this state for the industries involved at the project, as established by the United States Bureau of Labor Statistics;
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(z) For project sites located outside of metropolitan statistical areas, the average weekly wage paid to nonmanagerial employees in the county for industries involved at the project, as established by the United States Department of Commerce;

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

(bb) A list of all development subsidies that any business benefitting from public expenditures in the development area has previously received for the project, and the name of any other granting body from which such subsidies are sought;

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

(dd) A statement as to whether the development project may reduce employment at any other site, within or without the state, resulting from automation, merger, acquisition, corporate restructuring, relocation, or other business activity;

(ee) A statement as to whether or not the project involves the relocation of work from another address and if so, the number of jobs to be relocated and the address from which they are to be relocated;

(ff) A list of competing businesses in the county containing the development area and in each contiguous county;

(gg) A market study for the development area;

(hh) A certification by the chief officer of the applicant as to the accuracy of the development plan;

(2) The methodologies used in the application for determining the base year and determining the estimate of the incremental increase in the general revenue portion of the state sales tax revenues or the state income tax withheld by employers on behalf of new employees who fill new jobs created in the redevelopment area shall be approved by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee. Upon approval of the application, the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee shall issue a certificate of approval. The department of economic development may request the appropriation following application approval;

(3) The appropriation shall be either a portion of the estimate of the incremental increase in the general revenue portion of state sales tax revenues in the redevelopment area or a portion of the estimate of the state income tax withheld by the employer on behalf of new employees who fill new jobs created in the redevelopment area as indicated in the municipality's application, approved by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee. At no time shall the annual amount of the new state revenues approved for disbursements from the Missouri supplemental tax increment financing fund exceed thirty-two million dollars;

(4) Redevelopment plans and projects receiving new state revenues shall have a duration of up to fifteen years, unless prior approval for a longer term is given by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee; except that, in no case shall the duration exceed twenty-three years.

11. In addition to the areas authorized in subsection 9 of this section, the funding authorized pursuant to subsection 4 of this section shall also be available in a federally approved levee district, where construction of a levee begins after December 23, 1997, and which is contained within a county of the first classification without a charter form of government with a population between fifty thousand and one hundred thousand inhabitants which contains all or part of a city with a population in excess of four hundred thousand or more inhabitants.

12. There is hereby established within the state treasury a special fund to be known as the "Missouri Supplemental Tax Increment Financing Fund", to be administered by the department of economic development. The department shall annually distribute from the Missouri

supplemental tax increment financing fund the amount of the new state revenues as appropriated as provided in the provisions of subsections 4 and 5 of this section if and only if the conditions of subsection 10 of this section are met. The fund shall also consist of any gifts, contributions, grants or bequests received from federal, private or other sources. Moneys in the Missouri supplemental tax increment financing fund shall be disbursed per project pursuant to state appropriations.

13. Redevelopment project costs may include, at the prerogative of the state, the portion of salaries and expenses of the department of economic development and the department of revenue reasonably allocable to each redevelopment project approved for disbursements from the Missouri supplemental tax increment financing fund for the ongoing administrative functions associated with such redevelopment project. Such amounts shall be recovered from new state revenues deposited into the Missouri supplemental tax increment financing fund created under this section.

14. For redevelopment plans or projects approved by ordinance that result in net new jobs from the relocation of a national headquarters from another state to the area of the redevelopment project, the economic activity taxes and new state tax revenues shall not be based on a calculation of the incremental increase in taxes as compared to the base year or prior calendar year for such redevelopment project, rather the incremental increase shall be the amount of total taxes generated from the net new jobs brought in by the national headquarters from another state. In no event shall this subsection be construed to allow a redevelopment project to receive an appropriation in excess of up to fifty percent of the new state revenues.

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 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.

(3) In the event that the taxing authority incorrectly completes the forms created and promulgated under subdivision (2) of this subsection, or makes a clerical error, the taxing authority may submit amended forms with an explanation for the needed changes. If such amended forms are filed under regulations prescribed by the state auditor, the state auditor shall take into consideration such amended forms for the purposes of this subsection.

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.

137.090. TANGIBLE PERSONAL PROPERTY TO BE ASSESSED IN COUNTY OF OWNER'S RESIDENCE — EXCEPTIONS — APPORTIONMENT OF ASSESSMENT OF TRACTORS AND TRAILERS.. — 1. All tangible personal property of whatever nature and character situate in a county other than the one in which the owner resides shall be assessed in the county where the owner resides; except that, houseboats, cabin cruisers, floating boat docks, and manufactured homes, as defined in section 700.010, used for lodging shall be assessed in the county where they are located, and tangible personal property belonging to estates shall be assessed in the county in which the probate division of the circuit court has jurisdiction. Tangible personal property, other than motor vehicles as the term is defined in section 301.010, used exclusively in connection with farm operations of the owner and kept on the farmland, shall not be assessed by a city, town or village unless the farmland is totally within the boundaries of the city, town or village. No tangible personal property shall be simultaneously assessed in more than one county.

2. The assessed valuation of any tractor or trailer as defined in section 301.010 owned by an individual, partner, or member and used in interstate commerce must be apportioned to Missouri based on the ratio of miles traveled in this state to miles traveled in the United States in interstate commerce during the preceding tax year or on the basis of the most recent annual mileage figures available.

137.095. CORPORATE PROPERTY, WHERE TAXED — TRACTORS AND TRAILERS. — 1. The real and tangible personal property of all corporations operating in any county in the state of Missouri and in the city of St. Louis, and subject to assessment by county or township

assessors, shall be assessed and taxed in the county in which the property is situated on the first day of January of the year for which the taxes are assessed, and every general or business corporation having or owning tangible personal property on the first day of January in each year, which is situated in any other county than the one in which the corporation is located, shall make return to the assessor of the county or township where the property is situated, in the same manner as other tangible personal property is required by law to be returned, except that all motor vehicles which are the property of the corporation and which are subject to regulation under chapter 390 shall be assessed for tax purposes in the county in which the motor vehicles are based.

2. For the purposes of subsection 1 of this section, the term "based" means the place where the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled, except that leased passenger vehicles shall be assessed at the residence of the driver or, if the residence of the driver is unknown, at the location of the lessee.

3. The assessed valuation of any tractor or trailer as defined in section 301.010 owned by a corporation and used in interstate commerce must be apportioned to Missouri based on the ratio of miles traveled in this state to miles traveled in the United States in interstate commerce during the preceding tax year or on the basis of the most recent annual mileage figures available.

137.115. REAL AND PERSONAL PROPERTY, ASSESSMENT — MAINTENANCE PLAN — ASSESSOR MAY MAIL FORMS FOR PERSONAL PROPERTY — CLASSES OF PROPERTY, ASSESSMENT — PHYSICAL INSPECTION REQUIRED, WHEN, PROCEDURE. — 1. All other laws to the contrary notwithstanding, the assessor or the assessor's deputies in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property taxable in the assessor's city, county, town or district. Except as otherwise provided in subsection 3 of this section and section 137.078, the assessor shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. The assessor shall annually assess all real property, including any new construction and improvements to real property, and possessory interests in real property at the percent of its true value in money set in subsection 5 of this section. The true value in money of any possessory interest in real property in subclass (3), where such real property is on or lies within the ultimate airport boundary as shown by a federal airport layout plan, as defined by 14 CFR 151.5, of a commercial airport having a FAR Part 139 certification and owned by a political subdivision, shall be the otherwise applicable true value in money of any such possessory interest in real property, less the total dollar amount of costs paid by a party, other than the political subdivision, towards any new construction or improvements on such real property completed after January 1, 2008, and which are included in the above-mentioned possessory interest, regardless of the year in which such costs were incurred or whether such costs were considered in any prior year. The assessor shall annually assess all real property in the following manner: new assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct statement of all taxable tangible personal property owned by the person or under his or her care, charge or management, taxable in the county. On or before January first of each even-numbered year, the assessor shall prepare and submit a two-year assessment maintenance plan to the county governing body and the state tax commission for their respective approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state

tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If the state tax commission fails to approve a plan and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the county or the assessor shall petition the administrative hearing commission, by May first, to decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final decision of the administrative hearing commission shall be subject to judicial review in the circuit court of the county involved. In the event a valuation of subclass (1) real property within any county with a charter form of government, or within a city not within a county, is made by a computer, computer-assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer-assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

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

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

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

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

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

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

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

(2) Livestock, twelve percent;

(3) Farm machinery, twelve percent;

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

(5) Poultry, twelve percent; and

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

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

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

- (1) For real property in subclass (1), nineteen percent;
- (2) For real property in subclass (2), twelve percent; and
- (3) For real property in subclass (3), thirty-two percent.

6. Manufactured homes, as defined in section 700.010, which are actually used as dwelling units shall be assessed at the same percentage of true value as residential real property for the purpose of taxation. The percentage of assessment of true value for such manufactured homes shall be the same as for residential real property. If the county collector cannot identify or find the manufactured home when attempting to attach the manufactured home for payment of taxes owed by the manufactured home owner, the county collector may request the county commission to have the manufactured home removed from the tax books, and such request shall be granted within thirty days after the request is made; however, the removal from the tax books does not remove the tax lien on the manufactured home if it is later identified or found. For purposes of this section, a manufactured home located in a manufactured home rental park, rental community or on real estate not owned by the manufactured home owner shall be considered personal property. For purposes of this section, a manufactured home located on real estate owned by the manufactured home owner may be considered real property.

7. Each manufactured home assessed shall be considered a parcel for the purpose of reimbursement pursuant to section 137.750, unless the manufactured home is real estate as defined in subsection 7 of section 442.015 and assessed as a realty improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home is real estate as defined in subsection 7 of section 442.015, in which case the amount of tax due and owing on the assessment of the manufactured home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. **The assessor shall not use a value that is greater than the average trade-in value in determining the true value of the motor vehicle without performing a physical inspection of the motor vehicle. For vehicles two years old or newer from a vehicle's model year, the assessor may use a value other than average without performing a physical inspection of the motor vehicle.** In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. Before the assessor may increase the assessed valuation of any parcel of subclass (1) real property by more than fifteen percent since the last assessment, excluding increases due to new construction or improvements, the assessor shall conduct a physical inspection of such property.

11. If a physical inspection is required, pursuant to subsection 10 of this section, the assessor shall notify the property owner of that fact in writing and shall provide the owner clear written notice of the owner's rights relating to the physical inspection. If a physical inspection is required, the property owner may request that an interior inspection be performed during the physical inspection. The owner shall have no less than thirty days to notify the assessor of a request for an interior physical inspection.

12. A physical inspection, as required by subsection 10 of this section, shall include, but not be limited to, an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access, and shall include an observation and review of the interior of any buildings or improvements on the property upon the timely request of the owner pursuant to subsection

11 of this section. Mere observation of the property via a drive-by inspection or the like shall not be considered sufficient to constitute a physical inspection as required by this section.

13. The provisions of subsections 11 and 12 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

14. A county or city collector may accept credit cards as proper form of payment of outstanding property tax or license due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank, processor, or issuer for its service. A county or city collector may accept payment by electronic transfers of funds in payment of any tax or license and charge the person making such payment a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic payment.

15. Any county or city not within a county in this state may, by an affirmative vote of the governing body of such county, opt out of the provisions of this section and sections 137.073, 138.060, and 138.100 as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session, for the next year of the general reassessment, prior to January first of any year. No county or city not within a county shall exercise this opt-out provision after implementing the provisions of this section and sections 137.073, 138.060, and 138.100 as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session, in a year of general reassessment. For the purposes of applying the provisions of this subsection, a political subdivision contained within two or more counties where at least one of such counties has opted out and at least one of such counties has not opted out shall calculate a single tax rate as in effect prior to the enactment of house bill no. 1150 of the ninety-first general assembly, second regular session. A governing body of a city not within a county or a county that has opted out under the provisions of this subsection may choose to implement the provisions of this section and sections 137.073, 138.060, and 138.100 as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, and section 137.073 as modified by house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session, for the next year of general reassessment, by an affirmative vote of the governing body prior to December thirty-first of any year.

16. The governing body of any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants located in any county that has exercised its authority to opt out under subsection 15 of this section may levy separate and differing tax rates for real and personal property only if such city bills and collects its own property taxes or satisfies the entire cost of the billing and collection of such separate and differing tax rates. Such separate and differing rates shall not exceed such city's tax rate ceiling.

137.720. PERCENTAGE OF AD VALOREM PROPERTY TAX COLLECTIONS TO BE DEDUCTED FOR DEPOSIT IN COUNTY ASSESSMENT FUND — ADDITIONAL DEDUCTIONS (ST. LOUIS CITY AND ALL COUNTIES). — 1. A percentage of all ad valorem property tax collections allocable to each taxing authority within the county and the county shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750. The percentage shall be one-half of one percent for all counties of the first and second classification and cities not within a county and one percent for counties of the third and fourth classification.

2. Prior to July 1, 2009, for counties of the first classification, counties with a charter form of government, and any city not within a county, an additional one-eighth of one percent of all

ad valorem property tax collections shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750, and for counties of the second, third, and fourth classification, an additional one-quarter of one percent of all ad valorem property tax collections shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750, provided that such additional amounts shall not exceed one hundred thousand dollars in any year for any county of the first classification and any county with a charter form of government and fifty thousand dollars in any year for any county of the second, third, or fourth classification.

3. Effective July 1, 2009, for counties of the first classification, counties with a charter form of government, and any city not within a county, an additional one-eighth of one percent of all ad valorem property tax collections shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750, and for counties of the second, third, and fourth classification, an additional one-half of one percent of all ad valorem property tax collections shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750, provided that such additional amounts shall not exceed one hundred twenty-five thousand dollars in any year for any county of the first classification and any county with a charter form of government and seventy-five thousand dollars in any year for any county of the second, third, or fourth classification.

4. The county shall bill any taxing authority collecting its own taxes. The county may also provide additional moneys for the fund. To be eligible for state cost-share funds provided pursuant to section 137.750, every county shall provide from the county general revenue fund an amount equal to an average of the three most recent years of the amount provided from general revenue to the assessment fund; provided, however, that capital expenditures and equipment expenses identified in a memorandum of understanding signed by the county's governing body and the county assessor prior to transfer of county general revenue funds to the assessment fund shall be deducted from a year's contribution before computing the three-year average, except that a lesser amount shall be acceptable if unanimously agreed upon by the county assessor, the county governing body, and the state tax commission. The county shall deposit the county general revenue funds in the assessment fund as agreed to in its original or amended maintenance plan, state reimbursement funds shall be withheld until the amount due is properly deposited in such fund.

5. For all years beginning on or after January 1, 2010, any property tax collections deposited into the county assessment funds provided for in subsection 2 of this section shall be disallowed in any year in which the state tax commission notifies the county that state assessment reimbursement funds have been withheld from the county for three consecutive quarters due to noncompliance by the assessor or county commission with the county's assessment maintenance plan.

[6. The provisions of subsections 2, 3, and 5 of this section shall expire on December 31, 2015.]

138.431. HEARING OFFICERS OF TAX COMMISSION TO HEAR APPEALS, WHEN, PROCEDURE — APPEAL OF HEARING OFFICER'S DECISION, HOW. — 1. To hear and decide appeals pursuant to section 138.430, the commission shall appoint one or more hearing officers. The hearing officers shall be subject to supervision by the commission. No person shall participate on behalf of the commission in any case in which such person is an interested party.

2. The commission may assign such appeals as it deems fit to a hearing officer for disposition.

(1) The assignment shall be deemed made when [the] **any** scheduling order is first issued by the commission [and signed by the hearing officer assigned, unless another hearing officer is assigned to the case for disposition by other language in said order] , **however, if no**

scheduling order has been issued, then a hearing officer shall be assigned no later than sixty days after the appeal is filed by the taxpayer.

(2) A change of hearing officer, or a reservation of the appeal for disposition as described in subsection 3 of this section, shall be ordered by the commission in any appeal upon the timely filing of a written application by a party to disqualify the hearing officer assigned. The application shall be filed within thirty days from the assignment of any appeal to a hearing officer and need not allege or prove any cause for such change and need not be verified. No more than one change of hearing officer shall be allowed for each party in any appeal.

3. The commission may, in its discretion, reserve such appeals as it deems fit to be heard and decided by the full commission, a quorum thereof, or any commissioner, subject to the provisions of section 138.240, and, in such case, the decision shall be final, subject to judicial review in the manner provided in subsection 4 of section 138.470.

4. The manner in which appeals shall be presented and the conduct of hearings shall be made in accordance with rules prescribed by the commission for determining the rights of the parties; provided that, the commission, with the consent of all the parties, may refer an appeal to mediation. The commission shall promulgate regulations for mediation pursuant to this section. No regulation or portion of a regulation promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536. There shall be no presumption that the assessor's valuation is correct. A full and complete record shall be kept of all proceedings. All testimony at any hearing shall be recorded but need not be transcribed unless the matter is further appealed.

5. Unless an appeal is voluntarily dismissed, a hearing officer, after affording the parties reasonable opportunity for fair hearing, shall issue a decision and order affirming, modifying, or reversing the determination of the board of equalization, and correcting any assessment which is unlawful, unfair, improper, arbitrary, or capricious. The commission may, prior to the decision being rendered, transfer to another hearing officer the proceedings on an appeal determination before a hearing officer. The complainant, respondent-assessor, or other party shall be duly notified of a hearing officer's decision and order, together with findings of fact and conclusions of law. Appeals from decisions of hearing officers shall be made pursuant to section 138.432.

6. All decisions issued pursuant to this section or section 138.432 by the commission or any of its duly assigned hearing officers shall be issued no later than sixty days after the hearing on the matter to be decided is held or the date on which the last party involved in such matter files his or her brief, whichever event later occurs.

238.272. AUDIT AUTHORIZED, WHEN — COSTS, PAYMENT OF. — The state auditor [shall] **may** audit each district not [less] **more** than once every three years[, and may audit more frequently if the state auditor deems appropriate]. The costs of this audit shall be paid by the district **and shall not exceed three percent of the gross revenues received by the transportation district.**

360.045. POWERS OF AUTHORITY — TRANSFER OF MONEYS TO REBUILD DAMAGED INFRASTRUCTURE FUND. — **1.** The authority shall have the following powers together with all powers incidental thereto or necessary for the performance thereof:

- (1) To have perpetual succession as a body politic and corporate;
- (2) To adopt bylaws for the regulation of its affairs and the conduct of its business;
- (3) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;
- (4) To have and to use a corporate seal and to alter the same at pleasure;
- (5) To maintain an office at such place or places in the state of Missouri as it may designate;
- (6) To determine the location and construction of any facility to be financed under the provisions of sections 360.010 to 360.140, and to construct, reconstruct, repair, alter, improve,

extend, maintain, lease, and regulate the same; and to designate a participating health institution or a participating educational institution, as the case may be, as its agent to determine the location and construction of a facility undertaken by such participating health institution or participating educational institution, as the case may be, under the provisions of sections 360.010 to 360.140, to construct, reconstruct, repair, alter, improve, extend, maintain, and regulate the same, and to enter into contracts for any and all of such purposes including contracts for the management and operation of the facility;

(7) To lease to a participating health institution or a participating educational institution, as the case may be, the particular health or educational facility or facilities, as the case may be, upon such terms and conditions as the authority shall deem proper; to charge and collect rent therefor; to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; to include in any such lease, if desired, provisions that the lessee thereof shall have options to renew the term of the lease for such period or periods at such rent as shall be determined by the authority or to purchase any or all of the particular leased facility or facilities; and, upon payment of all of the indebtedness incurred by the authority for the financing of the facility or facilities, to convey any or all of such facility or facilities to the lessee or lessees thereof. Every lease agreement between the authority and an institution must contain a clause obligating the institution not to use the leased land, nor any facility located thereon, for sectarian instruction or study or as a place of religious worship, or in connection with any part of the program of a school or department of divinity of any religious denomination; to insure that this covenant is honored, each lease agreement shall allow the authority to conduct inspections, and every conveyance of title to an institution shall contain a restriction against use for any sectarian purpose;

(8) To issue its bonds, notes, or other obligations for any of its corporate purposes and to refund the same, all as provided in sections 360.010 to 360.140;

(9) To transfer assets of the authority to the rebuild damaged infrastructure fund created in section 33.295;

(10) To fix and revise from time to time and make and collect rates, rents, fees, and charges for the use of and services furnished or to be furnished by any facility or facilities or any portion thereof and to contract with any person, firm, or corporation or other body, public or private, in respect thereof; except that the authority shall have no jurisdiction over rates, rents, fees, and charges established by a participating educational institution for its students or established by a participating health institution for its patients other than to require that such rates, rents, fees, and charges by such an institution be sufficient to discharge the institution's obligations to the authority;

~~[(10)]~~ **(11)** To establish rules and regulations for review by or on behalf of the authority of the retention or employment by a participating health institution or by a participating educational institution, as the case may be, of consulting engineers, architects, attorneys, accountants, construction and finance experts, superintendents, managers, and such other employees and agents as shall be determined to be necessary in connection with any such facility or facilities and for review by or on behalf of the authority of all reports, studies, or other material prepared in connection with any bond issue of the authority for any such facility or facilities. The costs incurred or to be incurred by a participating health institution or by a participating educational institution in connection with the review shall be deemed, where appropriate, an expense of constructing the facility or facilities or, where appropriate, shall be deemed an annual expense of operation and maintenance of the facility or facilities;

~~[(11)]~~ **(12)** To receive and accept from any public agency loans or grants for or in aid of the construction of a facility or facilities, or any portion thereof, or for equipping the same and to receive and accept grants, gifts, or other contributions from any source;

~~[(12)]~~ **(13)** To mortgage or pledge all or any portion of any facility or facilities, including any other health or educational facility or facilities conveyed to the authority for such purpose and the site or sites thereof, whether then owned or thereafter acquired, for the benefit of the

holders of the bonds of the authority issued to finance such facility or facilities or any portion thereof or issued to refund or refinance outstanding indebtedness of a private health institution or a private institution of higher education as permitted by sections 360.010 to 360.140;

~~[(13)]~~ **(14)** To make loans to any participating health institution or participating educational institution, as the case may be, for the cost of any facility or facilities in accordance with an agreement between the authority and such participating health institution or participating educational institution, as the case may be; except that no such loan shall exceed the total cost of such facility or facilities as determined by the participating health institution or participating educational institution, as the case may be, and approved by the authority;

~~[(14)]~~ **(15)** To make loans to a participating health institution or participating educational institution, as the case may be, to refund outstanding obligations, mortgages, or advances issued, made, or given by the institution for the cost of its facility or facilities, including the power to issue bonds and make loans to a participating health institution or participating educational institution, as the case may be, to refinance indebtedness incurred for facilities undertaken and completed prior to or after September 28, 1975, whenever the authority finds that the financing is in the public interest, alleviates a financial hardship upon the participating health institution or participating educational institution, as the case may be, and results in a lesser cost of patient care or cost of education and a saving to third parties, including state or federal governments, and to others who must pay for the care or education;

~~[(15)]~~ **(16)** To inspect any and all facilities assisted by the authority in any way to enforce the prohibition against sectarian or religious use at any time; and

~~[(16)]~~ **(17)** To do all things necessary and convenient to carry out the purposes of sections 360.010 to 360.140.

2. Notwithstanding any provision of law to the contrary, including section 360.115, the authority shall transfer four million dollars of the assets of the authority to the rebuild damaged infrastructure fund created in section 33.295 on July 1, 2013.

374.150. FEES PAID TO DIRECTOR OF REVENUE, EXCEPTION — DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION DEDICATED FUND ESTABLISHED, PURPOSE — LAPSE INTO GENERAL REVENUE, WHEN — ANNUAL TRANSFER OF MONEYS TO GENERAL REVENUE. — 1. All fees due the state under the provisions of the insurance laws of this state shall be paid to the director of revenue and deposited in the state treasury to the credit of the insurance dedicated fund unless otherwise provided for in subsection 2 of this section.

2. There is hereby established in the state treasury a special fund to be known as the "Insurance Dedicated Fund". The fund shall be subject to appropriation of the general assembly and shall be devoted solely to the payment of expenditures incurred by the department attributable to duties performed by the department for the regulation of the business of insurance, regulation of health maintenance organizations and the operation of the division of consumer affairs as required by law which are not paid for by another source of funds. Other provisions of law to the contrary notwithstanding, beginning on January 1, 1991, all fees charged under any provision of chapter 325, 354, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384 or 385 due the state shall be paid into this fund. The state treasurer shall invest moneys in this fund in the same manner as other state funds and any interest or earnings on such moneys shall be credited to the insurance dedicated fund. The provisions of section 33.080 notwithstanding, moneys in the fund shall not lapse, be transferred to or placed to the credit of the general revenue fund unless and then only to the extent to which the unencumbered balance at the close of the biennium year exceeds two times the total amount appropriated, paid, or transferred to the fund during such fiscal year.

3. Notwithstanding provisions of this section to the contrary, five hundred thousand dollars of the insurance dedicated fund shall annually be transferred and placed to the credit of the state general revenue fund on July first beginning with fiscal year 2014.

SECTION B. EMERGENCY CLAUSE. — Because of the necessity to provide funding for the reconstruction, replacement, or renovation of, or repair to, any infrastructure damaged by a presidentially declared natural disaster, and to ensure the safety of the citizens of this state, including by means of the operation of local hospitals, sections 33.080, 33.295, 96.229, 302.309, 360.045, and 374.150 of section A of this act are deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and sections 33.080, 33.295, 96.229, 302.309, 360.045, and 374.150 of section A of this act shall be in full force and effect upon its passage and approval.

Vetoed July 12, 2013

Overridden September 11, 2013

SB 9 [CCS#2 HCS SCS SB 9]

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

Modifies provisions relating to agriculture

AN ACT to repeal sections 178.550, 267.655, 442.571, 442.576, 570.030, 578.009, and 578.012, RSMo, and to enact in lieu thereof nine new sections relating to agriculture, with penalty provisions.

SECTION

- A. Enacting clause.
- 178.550. Career and technical education student protection act — council established, members, terms, meetings, duties.
- 262.598. Extension districts authorized — powers and duties — tax authorized, ballot language — withdrawal, ballot language — increase in tax, ballot language.
- 267.655. Civil penalties.
- 442.571. Aliens not to own agricultural land — term of — violation.
- 442.576. Duties of director of agriculture and attorney general — court to order divestiture — when to be accomplished — failure.
- 570.030. Stealing — penalties.
- 578.009. Animal neglect and abandonment — penalties.
- 578.011. Animal trespass, penalty.
- 578.012. Animal abuse — penalties.

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

SECTION A. ENACTING CLAUSE. — Sections 178.550, 267.655, 442.571, 442.576, 570.030, 578.009, and 578.012, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 178.550, 262.598, 267.655, 442.571, 442.576, 570.030, 578.009, 578.011, and 578.012, RSMo, to read as follows:

178.550. CAREER AND TECHNICAL EDUCATION STUDENT PROTECTION ACT — COUNCIL ESTABLISHED, MEMBERS, TERMS, MEETINGS, DUTIES. — [The president of the state board of education shall annually appoint a committee of five members to be known as the "State Advisory Committee for Vocational Education". The state advisory committee shall consist of one person of experience in agriculture; one employer; one representative of labor; one person of experience in home economics; one person of experience in commerce. The state commissioner of education is ex officio a member and the chairman of the advisory committee. The state board of education shall formulate general principles and policies for the administration of sections 178.420 to 178.580, which, when they have been approved by the state advisory committee, shall be put into effect. Joint conferences between the state board of education and advisory committee shall be held at least four times each year. All members of the state advisory committee shall be reimbursed for their actual expenses in attending the conferences.] **1. This section shall be known and may be cited as the "Career and Technical Education Student Protection Act". There is hereby established the "Career and Technical Education Advisory Council" within the department of elementary and secondary education.**

2. The advisory council shall be composed of eleven members who shall be Missouri residents, appointed by the governor with the advice and consent of the senate:

- (1) A director or administrator of a career and technical education center;
- (2) An individual from the business community with a background in commerce;
- (3) A representative from Linn State Technical College;
- (4) Three current or retired career and technical education teachers who also serve

or served as an advisor to any of the nationally recognized career and technical education student organizations of:

- (a) DECA;
 - (b) Future Business Leaders of America (FBLA);
 - (c) FFA;
 - (d) Family, Career and Community Leaders of America (FCCLA);
 - (e) Health Occupations Students of America (HOSA);
 - (f) SkillsUSA; or
 - (g) Technology Student Association (TSA);
 - (5) A representative from a business organization, association of businesses, or a business coalition;
 - (6) A representative from a Missouri community college;
 - (7) A representative from Southeast Missouri State University or the University of Central Missouri;
 - (8) An individual participating in an apprenticeship recognized by the department of labor and industrial relations or approved by the United States Department of Labor's Office of Apprenticeship;
 - (9) A school administrator or school superintendent of a school that offers career and technical education.
3. Members shall serve a term of five years except for the initial appointments, which shall be for the following lengths:
- (1) One member shall be appointed for a term of one year;
 - (2) Two members shall be appointed for a term of two years;
 - (3) Two members shall be appointed for a term of three years;
 - (4) Three members shall be appointed for a term of four years;
 - (5) Three members shall be appointed for a term of five years.
4. The advisory council shall have three non-voting ex-officio members:
- (1) A director of guidance and counseling services at the department of elementary and secondary education, or a similar position if such position ceases to exist;
 - (2) The director of the division of workforce development; and
 - (3) A member of the coordinating board for higher education, as selected by the coordinating board.
5. The assistant commissioner for the office of college and career readiness of the department of elementary and secondary education shall provide staff assistance to the advisory council.
6. The advisory council shall meet at least four times annually. The advisory council 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. The advisory council shall elect from among its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the advisory council shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the advisory council.
7. Any business to come before the advisory council shall be available on the advisory council's internet website at least seven business days prior to the start of each meeting. All records of any decisions, votes, exhibits, or outcomes shall be available on the advisory council's internet website within forty-eight hours following the conclusion of every meeting. Any materials prepared for the members shall be delivered to the members at least five days before the meeting, and to the extent such materials are public records as defined in section 610.010 and are not permitted to be closed under section 610.021, shall be made available on the advisory council's internet website at least five business days in advance of the meeting.
8. The advisory council shall make an annual written report to the state board of education and the commissioner of education regarding the development, implementation, and administration of the state budget for career and technical education.
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9. The advisory council shall annually submit written recommendations to the state board of education and the commissioner of education regarding the oversight and procedures for the handling of funds for student career and technical education organizations.

10. The advisory council shall:

(1) Develop a comprehensive statewide short- and long-range strategic plan for career and technical education;

(2) Identify service gaps and provide advice on methods to close such gaps as they relate to youth and adult employees, workforce development, and employers on training needs;

(3) Confer with public and private entities for the purpose of promoting and improving career and technical education;

(4) Identify legislative recommendations to improve career and technical education;

(5) Promote coordination of existing career and technical education programs;

(6) Adopt, alter, or repeal its own bylaws, rules, and regulations governing the manner in which its business may be transacted.

11. For purposes of this section, the department of elementary and secondary education shall provide such documentation and information as to allow the advisory council to be effective.

12. For purposes of this section, "advisory council" shall mean the career and technical education advisory council.

262.598. EXTENSION DISTRICTS AUTHORIZED — POWERS AND DUTIES — TAX AUTHORIZED, BALLOT LANGUAGE — WITHDRAWAL, BALLOT LANGUAGE — INCREASE IN TAX, BALLOT LANGUAGE. — 1. As used in this section, the following terms shall mean:

(1) "Consolidated district", a district formed jointly by two or more councils;

(2) "Council", a University of Missouri extension council authorized under section 262.563;

(3) "District" or "extension district", a political subdivision formed by one or more councils;

(4) "Single-council district", a district formed by one council;

(5) "Governing body", the group of individuals who govern a district.

2. University of Missouri extension councils, except for any council located in a county with a charter form of government and with more than nine hundred fifty thousand inhabitants, are hereby authorized to form extension districts made up of cooperating counties for the purpose of funding extension programming. An extension district may be a single-council district or a consolidated district. A single-council district shall be formed upon a majority vote of the full council. A consolidated district shall be formed upon a majority vote of each participating council.

3. In a single-council district, the council shall serve as the district's governing body. In addition to any other powers and duties granted to the council under sections 262.550 to 262.620, the council shall also have the powers and duties provided under subsection 5 of this section.

4. In a consolidated district, the governing body of the district shall consist of at least three, but no more than five, representatives appointed by each participating council. The term of office shall be two years. Representatives may be reappointed. The governing body shall elect officers, who shall serve as officers for two years, and establish a regular meeting schedule which shall not be less than once every three months.

5. The governing body of a district shall have the following powers and duties:

(1) Review the activities and annual budgets of each participating council;

(2) Determine, by September first of each year, the tax rate necessary to generate sufficient revenue to fund the extension programming in the district, which includes

annual funding for each participating council for the costs of personnel and the acquisition, supply, and maintenance of each council's property, work, and equipment;

(3) Oversee the collection of any tax authorized under this section by ensuring the revenue is deposited into a special fund and monitoring the use of the funds to ensure they are used solely for extension programming in the district;

(4) Approve payments from the special fund in which the tax revenue is deposited; and

(5) Work cooperatively with each participating council to plan and facilitate the programs, equipment, and activities in the district.

6. The governing body of a district may submit a question to the voters of the district to institute a property tax levy in the county or counties that compose the district. Questions may be submitted to the voters of the district at any general municipal election. Any such proposed tax shall not exceed thirty cents per one hundred dollars of assessed valuation. The costs of submitting the question to the voters at the general municipal election shall be paid as provided in section 115.063. Such question shall be submitted in substantially the following form:

"Shall the Extension District in County (insert name of county) be authorized to levy an annual tax of (insert amount not to exceed thirty) cents per one hundred dollars of assessed valuation for the purpose of funding the University of Missouri Extension District programs, equipment, and services in the district?" In a single-council district, if a majority of the voters in the county approve the question, then the district shall impose the tax. If a majority of the voters in a single-council district do not approve the question, then no tax shall be imposed. In a consolidated district, if a majority of voters in each county in the district approve the question, then the district shall impose the tax. If a majority of the voters in a consolidated district do not approve the question, then no tax shall be imposed in any county of the district. In a consolidated district, if a majority of voters in a county do not approve the question, the council in the county that did not approve the question may withdraw from the district. Upon such withdrawal, the district shall be made up of the remaining counties and the tax shall be imposed in those counties. However, if the county that did not approve the question does not withdraw from the district, the tax shall not be imposed. Revenues collected from the imposition of a tax authorized under this section shall be deposited into a special fund dedicated only for use by the local district for programming purposes.

7. The county commission of any county in which the tax authorized under this section is levied and collected:

(1) Shall be exempt from the funding requirements under section 262.597 if revenue derived from the tax authorized under this section is in excess of an amount equal to two hundred percent of the average funding received under section 262.597 for the immediately preceding three years; or

(2) May reduce the current year's funding amount under section 262.597 by thirty-three percent of the amount of tax revenues derived from the tax authorized under this section which exceed the average amount of funding received under section 262.597 for the immediately preceding three years.

8. Any county that collects tax revenues authorized under this section shall transfer all attributable revenue plus monthly interest for deposit into the district's special fund. The governing body of the district shall comply with the prudent investor standard for investment fiduciaries as provided in section 105.688.

9. In any county in which a single-council district is established, and for which a tax has not been levied, the district may be dissolved in the same manner in which it was formed.

10. A county may withdraw from a consolidated district at any time by the filing of a petition with the circuit court having jurisdiction over the district. The petition shall be

signed by not fewer than ten percent of those who voted in the most recent presidential election in the county seeking to withdraw that is part of a consolidated district stating that further operation of the district is contrary to the best interest of the inhabitants of the county in which the district is located and that the county seeks to withdraw from the district. The circuit court shall hear evidence on the petition. If the court finds that it is in the best interest of the inhabitants of the county in which the district is located for the county to withdraw from the district, the court shall make an order reciting the same and submit the question to the voters. The costs of submitting the question to the voters at the general municipal election shall be paid as provided in section 115.063. The question shall be submitted in substantially the following format:

"Shall the County of (insert name of county) being part of (insert name of district) Extension District withdraw from the district?" The question shall be submitted at the next general municipal election date. The election returns shall be certified to the court. If the court finds that two-thirds of the voters voting on the question voted in favor of withdrawing from the district, the court shall issue an order withdrawing the county from the district, which shall contain a proviso that the district shall remain intact for the sole purposes of paying all outstanding and lawful obligations and disposing of the district's property. No additional costs or obligations for the withdrawing county shall be created except as necessary. The withdrawal shall occur on the first day of the following January after the vote. If the court finds that two-thirds of the voters voting on the question shall not have voted favorably on the question to withdraw from the district, the court shall issue an order dismissing the petition and the district shall continue to operate.

11. The governing body of any district may seek voter approval to increase its current tax rate authorized under this section, provided such increase shall not cause the total tax to exceed thirty cents per one hundred dollars of assessed valuation. To propose such an increase, the governing body shall submit the question to the voters at the general municipal election in the county in which the district is located. The costs of submitting the question to the voters at the general municipal election shall be paid as provided in section 115.063. The question shall be submitted in substantially the following form:

"Shall the Extension District in (insert name of county or counties) be authorized to increase the tax rate from (insert current amount of tax) cents to (insert proposed amount of tax not to exceed thirty) cents per one hundred dollars of assessed valuation for the purpose of funding the University of Missouri Extension District programs, equipment, and services in the district?" In a single-council district, if a majority of the voters in the county approve the question, then the district shall impose the tax. If a majority of the voters in a single-council district do not approve the question, then the tax shall not be imposed. In a consolidated district, if a majority of voters in the district approve the question, then the district shall impose the new tax rate. If a majority of the voters in a consolidated district do not approve the question, then the tax shall not be imposed in any county of the district. Revenues collected from the imposition of the tax authorized under this section shall be deposited into the special fund dedicated only for use by the district.

267.655. CIVIL PENALTIES. — In addition to the remedies provided for in sections 267.560 to 267.660 by law, the following civil penalties may be imposed:

(1) If the department director determines, after inquiry and opportunity for a hearing, that any individual is in violation of any provision of sections 267.560 to 267.660, or any regulations issued thereunder, the director shall have the authority to assess a civil penalty of not more than one thousand dollars per incident. In the event that a person penalized or ordered to pay restitution under this section fails to pay the penalty or

restitution, the director may apply to the circuit court of Cole County for, and the court is authorized to enter, an order enforcing the assessed penalty or restitution;

(2) The prosecuting attorney of any county in which a violation of any provisions of sections 267.560 to 267.660 occurs or the attorney general of the state, is hereby authorized to apply to any court of competent jurisdiction for, and such court shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction to restrain any person from violating any provisions of sections 267.560 to 267.660.

442.571. ALIENS NOT TO OWN AGRICULTURAL LAND — TERM OF — VIOLATION. — 1. Except as provided in sections 442.586 and 442.591, no alien or foreign business shall acquire by grant, purchase, devise, descent or otherwise agricultural land in this state **if the total aggregate alien and foreign ownership of agricultural acreage in this state exceeds one percent of the total aggregate agricultural acreage in this state. No such sale, transfer, or acquisition of any agricultural land in this state shall occur unless such sale, transfer, or acquisition is approved by the director of the department of agriculture in accordance with subsection 3 of this section.** No person may hold agricultural land as an agent, trustee, or other fiduciary for an alien or foreign business **in violation of sections 442.560 to 442.592.**

2. Any alien or foreign business who acquires agricultural land in violation of sections 442.560 to [442.591] **442.592** remains in violation of sections 442.560 to [442.591] **442.592** for as long as he or she holds an interest in the land.

3. **All such proposed acquisitions by grant, purchase, devise, descent, or otherwise of agricultural land in this state shall be submitted to the department of agriculture to determine whether such acquisition of agricultural land is conveyed in accordance with the one percent restriction on the total aggregate alien and foreign ownership of agricultural land in this state. The department shall establish by rule the requirements for submission and approval of requests under this subsection.**

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 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, 2013, shall be invalid and void.

442.576. DUTIES OF DIRECTOR OF AGRICULTURE AND ATTORNEY GENERAL — COURT TO ORDER DIVESTITURE — WHEN TO BE ACCOMPLISHED — FAILURE. — 1. If the director finds that an alien or foreign business or an agent, trustee, or other fiduciary therefor has acquired agricultural land in Missouri [after August 13, 1978] **in violation of sections 442.560 to 442.592**, or the land ceases to be used for nonagricultural purposes under section 442.591, he or she shall report the violation to the attorney general.

2. The attorney general shall institute an action in the circuit court of Cole County or the circuit court in any county in which agricultural land owned by the alien or foreign business, agent, trustee or other fiduciary, alleged to have violated sections 442.560 to [442.591] **442.592**, is located.

3. The attorney general shall file a notice of the pendency of the action with the recorder of deeds of each county in which any portion of such agricultural lands is located. If the court finds that the lands in question have been acquired in violation of sections 442.560 to [442.591] **442.592**, it shall enter an order so declaring and shall file a copy of the order with the recorder of deeds of each county in which any portion of the agricultural lands is located. The court shall order the owner to divest himself of the agricultural land. The owner must comply with the order within two years. The two-year limitation period shall be a covenant running with the title to the

land against any alien grantee or assignee. Provided, however, an incorporated foreign business must divest itself of agricultural land within the minimum time required by article XI, section 5, of the Missouri Constitution. Any agricultural lands not divested within the time prescribed shall be ordered sold by the court at a public sale in the manner prescribed by law for the foreclosure of a mortgage on real estate for default in payment.

570.030. STEALING — PENALTIES. — 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution pursuant to this section on the issue of the requisite knowledge or belief of the alleged stealer:

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

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

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

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

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

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

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

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

(3) The property appropriated consists of:

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

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

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

(d) Any firearms; or

(e) Any explosive weapon as defined in section 571.010; or

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

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

(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; or

(i) Any book of registration or list of voters required by chapter 115; or

(j) Any animal considered livestock as that term is defined in section 144.010; or

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

(l) Captive wildlife held under permit issued by the conservation commission; or

(m) Any controlled substance as defined by section 195.010; or

(n) Anhydrous ammonia;

(o) Ammonium nitrate; or

(p) Any document of historical significance which has fair market value of five hundred dollars or more.

4. Notwithstanding any other provision of law, stealing of any animal considered livestock, as that term is defined in section 144.010, is a class B felony if the value of the livestock exceeds ten thousand dollars.

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

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

[6.] 7. Any person with a prior conviction of paragraph (j) or (l) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (j) or (l) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony. Notwithstanding any provision of law to the contrary, such person shall serve a minimum prison term of not less than eighty percent of his or her sentence before he or she is eligible for probation, parole, conditional release, or other early release by the department of corrections.

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

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

578.009. ANIMAL NEGLECT AND ABANDONMENT —PENALTIES. — 1. A person is guilty of animal neglect [when] **if** he has custody or ownership or both of an animal and fails to provide adequate care [or adequate control, which results in substantial harm to the animal].

2. A person is guilty of abandonment [when] **if** he has knowingly abandoned an animal in any place without making provisions for its adequate care.

3. Animal neglect and abandonment is a class C misdemeanor upon first conviction and for each offense, punishable by imprisonment or a fine not to exceed five hundred dollars, or both, and a class B misdemeanor punishable by imprisonment or a fine not to exceed one thousand dollars, or both upon the second and all subsequent convictions. All fines and penalties for a first conviction of animal neglect or abandonment may be waived by the court provided that the person found guilty of animal neglect or abandonment shows that adequate, permanent remedies for the neglect or abandonment have been made. Reasonable costs incurred for the care and maintenance of neglected or abandoned animals may not be waived. This section shall not apply to the provisions of section 578.007 **or sections 272.010 to 272.370.**

4. In addition to any other penalty imposed by this section, the court may order a person found guilty of animal neglect or abandonment to pay all reasonable costs and expenses necessary for:

- (1) The care and maintenance of neglected or abandoned animals within the person's custody or ownership;
- (2) The disposal of any dead or diseased animals within the person's custody or ownership;
- (3) The reduction of resulting organic debris affecting the immediate area of the neglect or abandonment; and
- (4) The avoidance or minimization of any public health risks created by the neglect or abandonment of the animals.

578.011. ANIMAL TRESPASS, PENALTY. — 1. **A person is guilty of animal trespass if a person having ownership or custody of an animal knowingly fails to provide adequate control for a period equal to or exceeding twelve hours.**

2. **Animal trespass is an infraction upon first conviction and for each offense punishable by a fine not to exceed two hundred dollars, and a class C misdemeanor**

punishable by imprisonment or a fine not to exceed five hundred dollars, or both, upon the second and all subsequent convictions. All fines for a first conviction of animal trespass may be waived by the court provided that the person found guilty of animal trespass shows that adequate, permanent remedies for trespass have been made. Reasonable costs incurred for the care and maintenance of trespassing animals may not be waived. This section shall not apply to the provisions of section 578.007 or sections 272.010 to 272.370.

578.012. ANIMAL ABUSE — PENALTIES. — 1. A person is guilty of animal abuse [when] if a person:

- (1) Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of sections 578.005 to 578.023 and 273.030;
- (2) Purposely or intentionally causes injury or suffering to an animal; or
- (3) Having ownership or custody of an animal knowingly fails to provide adequate care [or adequate control] **which results in substantial harm to the animal.**

2. Animal abuse is a class A misdemeanor, unless the defendant has previously [plead] **pled** guilty to or has been found guilty of animal abuse or the suffering involved in subdivision (2) of subsection 1 of this section is the result of torture or mutilation, or both, consciously inflicted while the animal was alive, in which case it is a class D felony.

Vetoed July 2, 2013

Overridden September 11, 2013

SB 110 [HCS SB 110]

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

Establishes procedures to follow in child custody and visitation cases for military personnel

AN ACT to repeal sections 210.482 and 210.487, RSMo, and to enact in lieu thereof three new sections relating to custody and visitation for military personnel.

SECTION

- A. Enacting clause.
- 210.482. Background checks for emergency placements, requirements, exceptions — cost, paid by whom.
- 210.487. Background checks for foster families, requirements — costs, paid by whom — rulemaking authority.
- 452.413. Military deployment, child custody and visitation, effect of — nondeploying parent requirements — procedure — failure to comply, effect of.

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

SECTION A. ENACTING CLAUSE. — Sections 210.482 and 210.487, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 210.482, 210.487 and 452.413, to read as follows:

210.482. BACKGROUND CHECKS FOR EMERGENCY PLACEMENTS, REQUIREMENTS, EXCEPTIONS — COST, PAID BY WHOM. — 1. If the emergency placement of a child in a private home is necessary due to the unexpected absence of the child's parents, legal guardian, or custodian, the juvenile court or children's division:

(1) May request that a local or state law enforcement agency or juvenile officer, subject to any required federal authorization, immediately conduct a name-based criminal history record check to include full orders of protection and outstanding warrants of each person over the age of seventeen residing in the home by using the Missouri uniform law enforcement system (MULES) and the National Crime Information Center to access the Interstate Identification Index maintained by the Federal Bureau of Investigation; and

(2) Shall determine or, in the case of the juvenile court, shall request the division to determine whether any person over the age of seventeen years residing in the home is listed on the child abuse and neglect registry. For any children less than seventeen years of age residing in the home, the children's division shall inquire of the person with whom an emergency placement of a child will be made whether any children less than seventeen years of age residing in the home have ever been certified as an adult and convicted of or pled guilty or nolo contendere to any crime.

2. If a name-based search has been conducted pursuant to subsection 1 of this section, within fifteen calendar days after the emergency placement of the child in the private home, and if the private home has not previously been approved as a foster or adoptive home, all persons over the age of seventeen residing in the home and all children less than seventeen residing in the home who the division has determined have been certified as an adult for the commission of a crime shall report to a local law enforcement agency for the purpose of providing [two] **three** sets of fingerprints each and accompanying fees, pursuant to section 43.530. One set of fingerprints shall be used by the highway patrol to search the criminal history repository [and the second], **one** set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files, **and one set shall be forwarded to and retained by the division.** Results of the checks [will] **shall** be provided to the juvenile court or children's division office requesting such information. Any child placed in emergency placement in a private home shall be removed immediately if any person residing in the home fails to provide fingerprints after being requested to do so, unless the person refusing to provide fingerprints ceases to reside in the private home.

3. If the placement of a child is denied as a result of a name-based criminal history check and the denial is contested, all persons over the age of seventeen residing in the home and all children less than seventeen years of age residing in the home who the division has determined have been certified as an adult for the commission of a crime shall, within fifteen calendar days, submit to the juvenile court or the children's division [two] **three** sets of fingerprints in the same manner described in subsection 2 of this section, accompanying fees, and written permission authorizing the juvenile court or the children's division to forward the fingerprints to the state criminal record repository for submission to the Federal Bureau of Investigation. One set of fingerprints shall be used by the highway patrol to search the criminal history repository [and the second], **one** set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files, **and one set shall be retained by the division.**

4. **No person who submits fingerprints under this section shall be required to submit additional fingerprints under this section or section 210.487 unless the original fingerprints retained by the division are lost or destroyed.**

5. Subject to appropriation, the total cost of fingerprinting required by this section may be paid by the state, including reimbursement of persons incurring fingerprinting costs under this section.

[5.] 6. For the purposes of this section, "emergency placement" refers to those limited instances when the juvenile court or children's division is placing a child in the home of private individuals, including neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary caretaker.

210.487. BACKGROUND CHECKS FOR FOSTER FAMILIES, REQUIREMENTS — COSTS, PAID BY WHOM — RULEMAKING AUTHORITY. — 1. When conducting investigations of persons for the purpose of foster parent licensing, the division shall:

(1) Conduct a search for all persons over the age of seventeen in the applicant's household and for any child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime for evidence of full orders of protection. The office of state courts administrator shall allow access to the automated court information system by the division. The clerk of each court contacted by the division shall provide the division information within ten days of a request; and

(2) Obtain [two] **three** sets of fingerprints for any person over the age of seventeen in the applicant's household and for any child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime in the same manner set forth in subsection 2 of section 210.482. One set of fingerprints shall be used by the highway patrol to search the criminal history repository [and the second], **one** set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files, **and one set shall be forwarded to and retained by the division.** The highway patrol shall assist the division and provide the criminal fingerprint background information, upon request; and

(3) Determine whether any person over the age of seventeen residing in the home and any child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime is listed on the child abuse and neglect registry. For any children less than seventeen years of age residing in the applicant's home, the children's division shall inquire of the applicant whether any children less than seventeen years of age residing in the home have ever been certified as an adult and been convicted of or pled guilty or nolo contendere to any crime.

2. After the initial investigation is completed under subsection 1 of this section[.]:

(1) No person who submits fingerprints under subsection 1 of this section or section 210.482 shall be required to submit additional fingerprints under this section or section 210.482 unless the original fingerprints retained by the division are lost or destroyed; and

(2) The children's division and the department of health and senior services may waive the requirement for a fingerprint background check for any subsequent recertification.

3. Subject to appropriation, the total cost of fingerprinting required by this section may be paid by the state, including reimbursement of persons incurring fingerprinting costs under this section.

4. The division may make arrangements with other executive branch agencies to obtain any investigative background information.

5. The division may promulgate rules that are 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, 2004, shall be invalid and void.

452.413. MILITARY DEPLOYMENT, CHILD CUSTODY AND VISITATION, EFFECT OF — NONDEPLOYING PARENT REQUIREMENTS — PROCEDURE — FAILURE TO COMPLY, EFFECT OF. — 1. **As used in this section, the following terms shall mean:**

(1) **"Deploying parent", a parent of a child less than eighteen years of age whose parental rights have not been terminated by a court of competent jurisdiction or a guardian of a child less than eighteen years of age who is deployed or who has received**

written orders to deploy with the United States Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, or any other reserve component thereof;

(2) "Deployment", military service in compliance with military orders received by a member of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, or any other reserve component thereof to report for combat operations, contingency operations, peacekeeping operations, temporary duty (TDY), a remote tour of duty, or other service for which the deploying parent is required to report unaccompanied by any family member. Military service includes a period during which a military parent remains subject to deployment orders and remains deployed on account of sickness, wounds, leave, or other lawful cause;

(3) "Military parent", a parent of a child less than eighteen years of age whose parental rights have not been terminated by a court of competent jurisdiction or a guardian of a child less than eighteen years of age who is a service member of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, or any other reserve component thereof;

(4) "Nondeploying parent", a parent or guardian not subject to deployment.

2. If a military parent is required to be separated from a child due to deployment, a court shall not enter a final order modifying the terms establishing custody or visitation contained in an existing order until ninety days after the deployment ends unless there is a written agreement by both parties.

3. In accordance with section 452.412, deployment or the potential for future deployment shall not be the sole factor supporting a change in circumstances or grounds sufficient to support a permanent modification of the custody or visitation terms established in an existing order.

4. (1) An existing order establishing the terms of custody or visitation in place at the time a military parent is deployed may be temporarily modified to make reasonable accommodation for the parties due to the deployment.

(2) A temporary modification order issued under this section shall provide that the deploying parent shall have custody of the child or reasonable visitation, whichever is applicable under the original order, during a period of leave granted to the deploying parent, unless it is not in the best interest of the child.

(3) Any court order modifying a previously ordered custody or visitation due to deployment shall specify that the deployment is the basis for the order and shall be entered by the court as a temporary order.

(4) Any such temporary custody or visitation order shall require the nondeploying parent to provide the court and the deploying parent with written notice of the nondeploying parent's address and telephone number, and update such information within seven days of any change. However, if a valid order of protection under chapter 455 from this or another jurisdiction is in effect that requires that the address or contact information of the parent who is not deployed be kept confidential, the notification shall be made to the court only, and a copy of the order shall be included in the notification. Nothing in this subdivision shall be construed to eliminate the requirements under section 452.377.

(5) Upon motion of a deploying parent, with reasonable advance notice and for good cause shown, the court shall hold an expedited hearing in any custody or visitation matters instituted under this section when the military duties of the deploying parent have a material effect on his or her ability or anticipated ability to appear in person at a regularly scheduled hearing.

5. (1) A temporary modification of such an order automatically ends no later than thirty days after the return of the deploying parent and the original terms of the custody or visitation order in place at the time of deployment are automatically reinstated.

(2) Nothing in this section shall limit the power of the court to conduct an expedited or emergency hearing regarding custody or visitation upon return of the deploying parent, and the court shall do so within ten days of the filing of a motion alleging an immediate danger or irreparable harm to the child.

(3) The nondeploying parent shall bear the burden of showing that reentry of the custody or visitation order in effect before the deployment is no longer in the child's best interests. The court shall set any nonemergency motion by the nondeploying parent for hearing within thirty days of the filing of the motion.

6. (1) Upon motion of the deploying parent or upon motion of a family member of the deploying parent with his or her consent, the court may delegate his or her visitation rights, or a portion of such rights, to a family member with a close and substantial relationship to the minor child or children for the duration of the deployment if it is in the best interest of the child.

(2) Such delegated visitation time or access does not create an entitlement or standing to assert separate rights to parent time or access for any person other than a parent, and shall terminate by operation of law upon the end of the deployment, as set forth in this section.

(3) Such delegated visitation time shall not exceed the visitation time granted to the deploying parent under the existing order; except that, the court may take into consideration the travel time necessary to transport the child for such delegated visitation time.

(4) In addition, there is a rebuttable presumption that a deployed parent's visitation rights shall not be delegated to a family member who has a history of perpetrating domestic violence as defined under section 455.010 against another family or household member, or delegated to a family member with an individual in the family member's household who has a history of perpetrating domestic violence against another family or household member.

(5) The person or persons to whom delegated visitation time has been granted shall have full legal standing to enforce such rights.

7. Upon motion of a deploying parent and upon reasonable advance notice and for good cause shown, the court shall permit such parent to present testimony and evidence by affidavit or electronic means in support, custody, and visitation matters instituted under this section when the military duties of such parent have a material effect on his or her ability to appear in person at a regularly scheduled hearing. Electronic means includes communication by telephone, video conference, or the internet.

8. Any order entered under this section shall require that the nondeploying parent:

(1) Make the child or children reasonably available to the deploying parent when the deploying parent has leave;

(2) Facilitate opportunities for telephonic and electronic mail contact between the deploying parent and the child or children during deployment; and

(3) Receive timely information regarding the deploying parent's leave schedule.

9. (1) If there is no existing order establishing the terms of custody and visitation and it appears that deployment is imminent, upon the filing of initial pleadings and motion by either parent, the court shall expedite a hearing to establish temporary custody or visitation to ensure the deploying parent has access to the child, to ensure disclosure of information, to grant other rights and duties set forth in this section, and to provide other appropriate relief.

(2) Any initial pleading filed to establish custody or visitation for a child of a deploying parent shall be so identified at the time of filing by stating in the text of the pleading the specific facts related to deployment.

10. (1) Since military necessity may preclude court adjudication before deployment, the parties shall cooperate with each other in an effort to reach a mutually agreeable resolution of custody, visitation, and child support.

(2) A deploying parent shall provide a copy of his or her orders to the nondeploying parent promptly and without delay prior to deployment. Notification shall be made within ten days of receipt of deployment orders. If less than ten days notice is received by the deploying parent, notice shall be given immediately upon receipt of military orders. If all or part of the orders are classified or restricted as to release, the deploying parent shall provide, under the terms of this subdivision, all such nonclassified or nonrestricted information to the nondeploying parent.

11. In an action brought under this chapter, whenever the court declines to grant or extend a stay of proceedings under the Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections 521-522, and decides to proceed in the absence of the deployed parent, the court shall appoint a guardian ad litem to represent the minor child's interests.

12. Service of process on a nondeploying parent whose whereabouts are unknown may be accomplished in accordance with the provisions of section 506.160.

13. In determining whether a parent has failed to exercise visitation rights, the court shall not count any time periods during which the parent did not exercise visitation due to the material effect of such parent's military duties on visitation time.

14. Once an order for custody has been entered in Missouri, any absence of a child from this state during deployment shall be denominated a temporary absence for the purposes of application of the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). For the duration of the deployment, Missouri shall retain exclusive jurisdiction under the UCCJEA and deployment shall not be used as a basis to assert inconvenience of the forum under the UCCJEA.

15. In making determinations under this section, the court may award attorney's fees and costs based on the court's consideration of:

(1) The failure of either party to reasonably accommodate the other party in custody or visitation matters related to a military parent's service;

(2) Unreasonable delay caused by either party in resolving custody or visitation related to a military parent's service;

(3) Failure of either party to timely provide military orders, income, earnings, or payment information, housing or education information, or physical location of the child to the other party; and

(4) Other factors as the court may consider appropriate and as may be required by law.

Vetoed July 3, 2013

Overridden September 11, 2013

SB 129 [SS SCS SB 129]

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

Establishes the Volunteer Health Services Act to allow for licensed health care professionals to provide volunteer services for a sponsoring organization

AN ACT to amend chapter 191, RSMo, by adding thereto six new sections relating to volunteer health services.

SECTION

- A. Enacting clause.
- 191.1100. Citation of law — definitions.
- 191.1102. Additional licensure not required, when — inapplicability.
- 191.1104. Display of license or certificate, how satisfied.
- 191.1106. Registration with department required, fee, contents — quarterly reports — list of providers — recordkeeping requirements — rulemaking authority.
- 191.1110. Immunity from liability, when — no compensation to be received — certain military personnel deemed licensed.
- 191.1112. Volunteer crisis response teams — definitions — immunity from liability, inapplicability of.

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 six new sections, to be known as sections 191.1100, 191.1102, 191.1104, 191.1106, 191.1110, and 191.1112, to read as follows:

191.1100. CITATION OF LAW — DEFINITIONS. — 1. Sections 191.1100 to 191.1112 shall be known and may be cited as the "Volunteer Health Services Act".

2. As used in sections 191.1100 to 191.1112, the following terms shall mean:

- (1) "Gross deviation", a conscious disregard of the safety of others;**
- (2) "Health care provider", any physician, surgeon, dentist, nurse, optometrist, mental health professional licensed under chapter 337, veterinarian, or other practitioner of a health care discipline, the professional practice of which requires licensure or certification under state law or under comparable laws of another state, territory, district, or possession of the United States;**
- (3) "Licensed health care provider", any health care provider holding a current license or certificate issued under:**
 - (a) Missouri state law;**
 - (b) Comparable laws of another state, territory, district, or possession of the United States;**
- (4) "Regularly practice", to practice more than sixty days within any ninety-day period;**
- (5) "Sponsoring organization", any organization that organizes or arranges for the voluntary provision of health care services and registers with the department of health and senior services as a sponsoring organization in accordance with section 191.1106;**
- (6) "Voluntary provision of health care services", the providing of professional health care services by a health care provider without charge to a recipient of the services or a third party. The provision of such health care services under sections 191.1100 to 191.1112 shall be the provider's professional practice area in which the provider is licensed or certified.**

191.1102. ADDITIONAL LICENSURE NOT REQUIRED, WHEN — INAPPLICABILITY. — 1. Notwithstanding any provision of law to the contrary, no additional license or certificate otherwise required by state law is necessary for the voluntary provision of health care services by any person who:

- (1) Is a licensed health care provider;**
- (2) Lawfully practices under an exception to the licensure or certification requirements of any state, territory, district, or possession of the United States; provided that the person does not and will not regularly practice in the state of Missouri.**

2. The provisions of subsection 1 of this section shall not apply to:

- (1) Any person whose license or certificate is suspended or revoked under disciplinary proceedings in any jurisdiction; or**

(2) A licensed health care provider who renders services outside the scope of practice authorized by the provider's licensure, certification, or exception to such licensure or certification.

191.1104. DISPLAY OF LICENSE OR CERTIFICATE, HOW SATISFIED. — With regard to a person who voluntarily provides health care services and who is covered by the provisions of subsection 1 of section 191.1102, all requirements regarding display of a license or certificate shall be satisfied by the presentation for inspection, upon request, of a photocopy of the applicable license, certificate, or statement of exemption.

191.1106. REGISTRATION WITH DEPARTMENT REQUIRED, FEE, CONTENTS — QUARTERLY REPORTS — LIST OF PROVIDERS — RECORDKEEPING REQUIREMENTS — RULEMAKING AUTHORITY. — 1. Before providing volunteer health care services in this state, a sponsoring organization shall register with the department of health and senior services by submitting a registration fee of fifty dollars and filing a registration form. The registration and fee shall be submitted annually to the department with the fee to be used for the administration of sections 191.1100 to 191.1112. Such registration form shall contain:

- (1) The name of the sponsoring organization;
- (2) The name of the principal individual or individuals who are the officers or organization's officials responsible for the operation of the sponsoring organization;
- (3) The address, including street, city, zip code, and county, of the sponsoring organization's principal office address and the same address information for each principal or official listed in subdivision (2) of this subsection;
- (4) Telephone numbers for the principal office of the sponsoring agency and each principal or official listed in subdivision (2) of this subsection; and
- (5) Such additional information as the department shall require. Upon any change in the information required under this subsection, the sponsoring organization shall notify the department in writing of such change within thirty days of its occurrence.

2. The sponsoring organization shall file a quarterly voluntary services report with the department during the current quarter that lists all licensed health care providers who provided voluntary health care services during the preceding quarter. The sponsoring organization shall maintain on file for five years following the date of service additional information, including the date, place, and type of services provided.

3. Each sponsoring organization shall maintain a list of health care providers associated with its provision of voluntary health care services. For each such health care provider, the organization shall maintain a copy of a current license, certificate, or statement of exemption from licensure or certification, or in the event that the health care provider is currently licensed in the state of Missouri, a copy of the health care provider's license verification obtained from a state-sponsored website, if available.

4. The sponsoring organization shall maintain such records for a period of at least five years following the provision of health care services and shall furnish such records upon request to any regulatory board of any healing arts profession established under state law.

5. Compliance with subsections 1 and 2 of this section shall be prima facie evidence that the sponsoring organization has exercised due care in its selection of health care providers.

6. The department may revoke the registration of any sponsoring organization that fails to comply with the requirements of this section.

7. 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, 2013, shall be invalid and void.

8. Nothing in the volunteer health services act shall require a health care provider or organization providing health care services without charge to register with the department and receive the liability protection under sections 191.1100 to 191.1112.

191.1110. IMMUNITY FROM LIABILITY, WHEN — NO COMPENSATION TO BE RECEIVED — CERTAIN MILITARY PERSONNEL DEEMED LICENSED. — 1. (1) No licensed health care provider who engages in the voluntary provision of health care services within the limits of the person's license, certificate, or authorization to any patient of a sponsoring organization shall be liable for any civil damages for any act or omission resulting from the rendering of such services, unless the act or omission was the result of such person's gross deviation from the ordinary standard of care or willful misconduct.

(2) The volunteer licensee who is providing free care shall not receive compensation of any type, directly or indirectly, or any benefits of any type whatsoever, or any consideration of any nature, from any person for the free care. Nor shall such service be a part of the provider's training or assignment.

(3) The volunteer licensee shall be acting within the scope of such license, certification, or authority.

(4) A health care licensee providing free health care shall not engage in activities at a clinic, or at the health care licensee's office, if the activities are performed on behalf of the sponsoring organization, unless such activities are authorized by the appropriate authorities to be performed at the clinic or office and the clinic or office is in compliance with all applicable regulations.

2. For purposes of this section, any commissioned or contract medical officer or dentist serving on active duty in the United States Armed Forces and assigned to duty as a practicing, commissioned, or contract medical officer or dentist at any military hospital or medical facility owned and operated by the United States government shall be deemed to be licensed.

191.1112. VOLUNTEER CRISIS RESPONSE TEAMS — DEFINITIONS — IMMUNITY FROM LIABILITY, INAPPLICABILITY OF. — 1. For purposes of this section, the following terms shall mean:

(1) "Crisis intervention", a session at which crisis response services are rendered by a critical incident stress management team member or qualified mental health professional during or after a crisis or disaster;

(2) "Crisis response services", consultation, risk assessment, referral, and crisis intervention services provided by a critical incident stress management team or qualified mental health professional or paraprofessional trained within the Federal Emergency Management Agency (FEMA) Crisis Counseling Program or in psychological first aid to individuals affected by crisis or disaster;

(3) "Critical incident stress management team member" or "team member", an individual specially trained to provide crisis response services as a member of an organized community or local crisis response team that holds membership in a registered critical incident stress management team;

(4) "Registered team", a team formally registered with a recognized training agency. For purposes of this section, a recognized training agency shall include the International Critical Incident Stress Foundation, the National Organization for Victim Assistance, the

National Red Cross, the Missouri department of mental health, and other such organizations;

(5) "Training session", a session providing crisis response training by a qualified trainer utilizing the standards established by the accrediting agencies set out in subdivision (4) of this subsection;

(6) "Volunteer", a person who serves and receives no remuneration for services except reimbursement for actual expenses.

2. (1) Any volunteer crisis response team member who participates in a crisis intervention shall not be liable in tort for any personal injuries or infliction of emotional distress of any participant to the crisis intervention that is caused by the act or omission of a crisis response team member during the course of a crisis intervention.

(2) No volunteer crisis response team member who participates in a crisis intervention conducted within generally accepted protocols of a registered team, as defined by a nationally recognized accrediting agency, shall be liable for any civil damages for any act or omission resulting from the rendering of such services, unless the act or omission was the result of such person's gross deviation from the ordinary standard of care or willful misconduct.

(3) Subdivision (1) of this subsection shall not apply unless the intervention or training is conducted within generally accepted protocols of a registered team, as defined by a nationally recognized accrediting agency.

3. The tort immunity in subsection 2 of this section shall not apply if:

- (1) The team member acted with actual malice or willful intent to injure the subject;
- (2) The team member acted outside the scope of assigned duties;
- (3) The team member acted without team coordination and dispatch;
- (4) The action involved the commission of a crime;
- (5) The action involved sexual harassment, or sexual or physical abuse;
- (6) The actions involved any form of moral turpitude or moral misconduct; or
- (7) If damages resulted from gross deviation from the ordinary standard of care or willful misconduct.

Vetoed July 3, 2013

Overridden September 11, 2013

SB 170 [SB 170]

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

Allows members of public governmental bodies to cast roll call votes in a meeting if the member is participating via videoconferencing

AN ACT to repeal section 610.015, RSMo, and to enact in lieu thereof one new section relating to participation by members of public governmental bodies in roll call votes.

SECTION

- A. Enacting clause.
610.015. Votes, how taken.

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

SECTION A. ENACTING CLAUSE. — Section 610.015, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 610.015, to read as follows:

610.015. VOTES, HOW TAKEN. — Except as provided in section 610.021, rules authorized pursuant to article III of the Missouri Constitution and as otherwise provided by law, all votes shall be recorded, and if a roll call is taken, as to attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual member of the public governmental body. Any votes taken during a closed meeting shall be taken by roll call. All public meetings shall be open to the public and public votes and public records shall be open to the public for inspection and duplication. All votes taken by roll call in meetings of a public governmental body consisting of members who are all elected, except for the Missouri general assembly and any committee established by a public governmental body, shall be cast by members of the public governmental body who are physically present and in attendance at the meeting **or who are participating via videoconferencing**. When it is necessary to take votes by roll call in a meeting of the public governmental body, due to an emergency of the public body, with a quorum of the members of the public body physically present and in attendance and less than a quorum of the members of the public governmental body participating via telephone, facsimile, Internet, or any other voice or electronic means, the nature of the emergency of the public body justifying that departure from the normal requirements shall be stated in the minutes. Where such emergency exists, the votes taken shall be regarded as if all members were physically present and in attendance at the meeting.

Vetoed July 2, 2013

Overridden September 11, 2013

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