

SB 5 [CCS HCS SS SCS SB 5]

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

**Modifies distribution of traffic fines and court costs collected by municipal courts**

AN ACT to repeal section 302.341, RSMo, and to enact in lieu thereof twelve new sections relating to local government.

SECTION

- A. Enacting clause.
- 67.287. Minimum standards for municipalities in St. Louis County — definitions — failure to meet minimum standards, remedy, ballot language.
- 302.341. Moving traffic violation, failure to prepay fine or appear in court, license suspended, procedure.
- 479.155. Municipal division, reporting requirements to Missouri Supreme Court.
- 479.350. Definitions.
- 479.353. Conditions.
- 479.356. Failure to pay court costs, fine, or fees, setoff of income tax refund, when.
- 479.359. Political subdivisions to annually calculate percentage of revenue from minor traffic violations — limitation on percentage — addendum to report, contents.
- 479.360. Certification of substantial compliance, filed with state auditor — procedures adopted and certified.
- 479.362. Filing of addendum, notice to revenue — failure to file, procedure.
- 479.368. Failure to timely file, loss of local sales tax revenue and certain county sales tax revenue — election required, when.
- 479.372. Rulemaking authority.
- 479.375. Severability clause.

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

**SECTION A. ENACTING CLAUSE.** — Section 302.341, RSMo, is repealed and twelve new sections enacted in lieu thereof, to be known as sections 67.287, 302.341, 479.155, 479.350, 479.353, 479.356, 479.359, 479.360, 479.362, 479.368, 479.372, and 479.375, to read as follows:

**67.287. MINIMUM STANDARDS FOR MUNICIPALITIES IN ST. LOUIS COUNTY — DEFINITIONS — FAILURE TO MEET MINIMUM STANDARDS, REMEDY, BALLOT LANGUAGE.** —

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

- (1) "Minimum standards", adequate and material provision of each of the items listed in subsection 2 of this section;
- (2) "Municipality", any city, town, or village located in any county with a charter form of government and with more than nine hundred fifty thousand inhabitants;
- (3) "Peace officer", any peace officer as defined in section 590.010 who is licensed under chapter 590.

**2. Every municipality shall meet the following minimum standards within three years of the effective date of this section by providing the following municipal services, financial services, and reports, except that the provision of subdivision (6) of this subsection shall be completed within six years:**

- (1) A balanced annual budget listing anticipated revenues and expenditures, as required in section 67.010;
- (2) An annual audit by a certified public accountant of the finances of the municipality that includes a report on the internal controls utilized by the municipality and prepared by a qualified financial consultant that are implemented to prevent misuse of public funds. The municipality also shall include its current procedures that show compliance with or reasonable exceptions to the recommended internal controls;
- (3) A cash management and accounting system that accounts for all revenues and expenditures;

- (4) Adequate levels of insurance to minimize risk to include:
  - (a) General liability coverage;
  - (b) If applicable, liability coverage with endorsements to cover emergency medical personnel and paramedics;
  - (c) If applicable, police professional liability coverage;
  - (d) Workers compensation benefits for injured employees under the provisions of chapter 287; and
  - (e) Bonds for local officials as required by section 77.390, 79.260, 80.250, or local charter;
- (5) Access to a complete set of ordinances adopted by the governing body available to the public within ten business days of a written request. An online version of the regulations or code shall satisfy this requirement for those ordinances that are codified;
- (6) A police department accredited or certified by the Commission on Accreditation for Law Enforcement Agencies or the Missouri Police Chiefs Association or a contract for police service with a police department accredited or certified by such entities;
- (7) Written policies regarding the safe operation of emergency vehicles, including a policy on police pursuit;
- (8) Written policies regarding the use of force by peace officers;
- (9) Written general orders for a municipal police department unless contracting with another municipality or county for police services;
- (10) Written policies for collecting and reporting all crime and police stop data for the municipality as required by law. Such policies shall be forwarded to the attorney general's office;
- (11) Construction code review by existing staff, directly or by contract with a public or private agency; and
- (12) Information published annually on the website of the municipality indicating how the municipality met the standards in this subsection. If there is no municipal website, the information shall be submitted to the county for publication on its website, if it has a website.

3. If any resident of a municipality has belief or knowledge that such municipality has failed to ensure that the standards listed in subsection 2 of this section are regularly provided and are likely to continue to be provided, he or she may make an affidavit before any person authorized to administer oaths setting forth the facts alleging the failure to meet the required standards and file the affidavit with the attorney general. It shall be the duty of the attorney general, if, in his or her opinion, the facts stated in the affidavit justify, to declare whether the municipality is operating below minimum standards, and if it is, the municipality shall have sixty days to rectify the deficiencies in services noted by the attorney general. If after sixty days the municipality is still deemed by the attorney general to have failed to rectify sufficient minimum standards to be in compliance with those specified by subsection 2 of this section, the attorney general may file suit in the circuit court of the county. If the court finds that the municipality is not in compliance with the minimum standards specified in subsection 2 of this section, the circuit court of the county shall order the following remedies:

- (1) Appointment of an administrative authority for the municipality including, but not limited to, another political subdivision, the state, or a qualified private party to administer all revenues under the name of the municipality or its agents and all funds collected on behalf of the municipality. If the court orders an administrative authority to administer the revenues under this subdivision, it may send an order to the director of revenue or other party charged with distributing tax revenue, as identified by the attorney general, to distribute such revenues and funds to the administrative authority who shall use such revenues and existing funds to provide the services required under a plan approved by the court. The court shall enter an order directing all financial and other

institutions holding funds of the municipality, as identified by the attorney general, to honor the directives of the administrative authority;

(2) If the court finds that the minimum standards specified in subsection 2 of this section still are not established at the end of ninety days from the time the court finds that the municipality is not in compliance with the minimum standards specified in subsection 2 of this section, the court may either enter an order disincorporating the municipality or order placed on the ballot the question of whether to disincorporate the municipality as provided in subdivisions (1), (2), (4), and (5) of subsection 3 of section 479.368. The court also shall place the question of disincorporation on the ballot as provided by subdivisions (1), (2), (4), and (5) of subsection 3 of section 479.368 if at least twenty percent of the registered voters residing in the subject municipality or forty percent of the number of voters who voted in the last municipal election, whichever is lesser, submit a petition to the court while the matter is pending, seeking disincorporation. The question shall be submitted to the voters in substantially the following form:

"The city/town/village of ..... has failed to meet minimum standards of governance as required by law. Shall the city/town/village of ..... be dissolved?"

YES  NO

If electors vote to disincorporate, the court shall determine the date upon which the disincorporation shall occur, taking into consideration a logical transition.

4. The court shall have ongoing jurisdiction to enforce its orders and carry out the remedies in subsection 3 of this section.

**302.341. MOVING TRAFFIC VIOLATION, FAILURE TO PREPAY FINE OR APPEAR IN COURT, LICENSE SUSPENDED, PROCEDURE.** — 1. If a Missouri resident charged with a moving traffic violation of this state or any county or municipality of this state fails to dispose of the charges of which the resident is accused through authorized prepayment of fine and court costs and fails to appear on the return date or at any subsequent date to which the case has been continued, or without good cause fails to pay any fine or court costs assessed against the resident for any such violation within the period of time specified or in such installments as approved by the court or as otherwise provided by law, any court having jurisdiction over the charges shall within ten days of the failure to comply inform the defendant by ordinary mail at the last address shown on the court records that the court will order the director of revenue to suspend the defendant's driving privileges if the charges are not disposed of and fully paid within thirty days from the date of mailing. Thereafter, if the defendant fails to timely act to dispose of the charges and fully pay any applicable fines and court costs, the court shall notify the director of revenue of such failure and of the pending charges against the defendant. Upon receipt of this notification, the director shall suspend the license of the driver, effective immediately, and provide notice of the suspension to the driver at the last address for the driver shown on the records of the department of revenue. Such suspension shall remain in effect until the court with the subject pending charge requests setting aside the noncompliance suspension pending final disposition, or satisfactory evidence of disposition of pending charges and payment of fine and court costs, if applicable, is furnished to the director by the individual. The filing of financial responsibility with the bureau of safety responsibility, department of revenue, shall not be required as a condition of reinstatement of a driver's license suspended solely under the provisions of this section.

2. [If any city, town, village, or county receives more than thirty percent of its annual general operating revenue from fines and court costs for traffic violations, including amended charges from any traffic violation, occurring within the city, town, village, or county, all revenues from such violations in excess of thirty percent of the annual general operating revenue of the city, town, village, or county shall be sent to the director of the department of revenue and shall be distributed annually to the schools of the county in the same manner that proceeds of all penalties, forfeitures and fines collected for any breach of the penal laws of the state are

distributed. The director of the department of revenue shall set forth by rule a procedure whereby excess revenues as set forth above shall be sent to the department of revenue. If any city, town, village, or county disputes a determination that it has received excess revenues required to be sent to the department of revenue, such city, town, village, or county may submit to an annual audit by the state auditor under the authority of Article IV, Section 13 of the Missouri Constitution. An accounting of the percent of annual general operating revenue from fines and court costs for traffic violations, including amended charges from any charged traffic violation, occurring within the city, town, village, or county and charged in the municipal court of that city, town, village, or county shall be included in the comprehensive annual financial report submitted to the state auditor by the city, town, village, or county under section 105.145. Any city, town, village, or county which fails to make an accurate or timely report, or to send excess revenues from such violations to the director of the department of revenue by the date on which the report is due to the state auditor shall suffer an immediate loss of jurisdiction of the municipal court of said city, town, village, or county on all traffic-related charges until all requirements of this section are satisfied. 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, 2009, shall be invalid and void.] **The provisions of subsection 1 of this section shall not apply to minor traffic violations as defined in section 479.350.**

**479.155. MUNICIPAL DIVISION, REPORTING REQUIREMENTS TO MISSOURI SUPREME COURT. — 1.** By September 1, 2015, the presiding judge of the circuit court in which the municipal division is located shall report to the clerk of the supreme court the name and address of the municipal division and any other information regarding the municipal division requested by the clerk of the supreme court on a standardized form developed by the clerk of the supreme court.

**2.** If a municipality elects to abolish or establish a municipal division, the presiding judge of the circuit court in which the municipal division is located shall notify the clerk of the supreme court and shall complete the report required under subsection 1 of this section within ninety days of the establishment of the division.

**3.** The supreme court shall develop rules regarding conflict of interest for any prosecutor, defense attorney, or judge that has a pending case before the municipal division of any circuit court.

**479.350. DEFINITIONS. —** For purposes of sections 479.350 to 479.372, the following terms mean:

(1) "Annual general operating revenue", revenue that can be used to pay any bill or obligation of a county, city, town, or village, including general sales tax; general use tax; general property tax; fees from licenses and permits; unrestricted user fees; fines, court costs, bond forfeitures, and penalties. Annual general operating revenue does not include designated sales or use taxes; restricted user fees; grant funds; funds expended by a political subdivision for technological assistance in collecting, storing, and disseminating criminal history record information and facilitating criminal identification activities for the purpose of sharing criminal justice-related information among political subdivisions; or other revenue designated for a specific purpose;

(2) "Court costs", costs, fees, or surcharges which are retained by a county, city, town, or village upon a finding of guilty or plea of guilty, and shall exclude any costs, fees, or surcharges disbursed to the state or other entities by a county, city, town, or village;

(3) "Minor traffic violation", a municipal or county ordinance violation prosecuted that does not involve an accident or injury, that does not involve the operation of a commercial motor vehicle, and for which the department of revenue is authorized to assess no more than four points to a person's driving record upon conviction. Minor traffic violation shall exclude a violation for exceeding the speed limit by more than nineteen miles per hour or a violation occurring within a construction zone or school zone.

**479.353. CONDITIONS.** — The following conditions shall apply to minor traffic violations:

(1) The court shall not assess a fine, if combined with the amount of court costs, totaling in excess of three hundred dollars;

(2) The court shall not sentence a person to confinement, except the court may sentence a person to confinement for violations involving alcohol or controlled substances, violations endangering the health or welfare of others, and eluding or giving false information to a law enforcement officer;

(3) A person shall not be placed in confinement for failure to pay a fine unless such nonpayment violates terms of probation;

(4) Court costs that apply shall be assessed against the defendant unless the court finds that the defendant is indigent based on standards set forth in determining such by the presiding judge of the circuit. Such standards shall reflect model rules and requirements to be developed by the supreme court; and

(5) No court costs shall be assessed if the case is dismissed.

**479.356. FAILURE TO PAY COURT COSTS, FINE, OR FEES, SETOFF OF INCOME TAX REFUND, WHEN.** — If a person fails to pay court costs, fines, fees, or other sums ordered by a municipal court, to be paid to the state or political subdivision, a municipal court may report any such delinquencies in excess of twenty-five dollars to the director of the department of revenue and request that the department seek a setoff of an income tax refund as provided by sections 143.782 to 143.788. The department shall promulgate rules necessary to effectuate the purpose of the offset program.

**479.359. POLITICAL SUBDIVISIONS TO ANNUALLY CALCULATE PERCENTAGE OF REVENUE FROM MINOR TRAFFIC VIOLATIONS — LIMITATION ON PERCENTAGE — ADDENDUM TO REPORT, CONTENTS.** — 1. Every county, city, town, and village shall annually calculate the percentage of its annual general operating revenue received from fines, bond forfeitures, and court costs for minor traffic violations, including amended charges for any minor traffic violations, whether the violation was prosecuted in municipal court, associate circuit court, or circuit court, occurring within the county, city, town, or village. If the percentage is more than thirty percent, the excess amount shall be sent to the director of the department of revenue. The director of the department of revenue shall set forth by rule a procedure whereby excess revenues as set forth in this section shall be sent to the department of revenue. The department of revenue shall distribute these moneys annually to the schools of the county in the same manner that proceeds of all fines collected for any breach of the penal laws of this state are distributed.

2. Beginning January 1, 2016, the percentage specified in subsection 1 of this section shall be reduced from thirty percent to twenty percent, unless any county, city, town, or village has a fiscal year beginning on any date other than January first, in which case the reduction shall begin on the first day of the immediately following fiscal year except that any county with a charter form of government and with more than nine hundred fifty thousand inhabitants and any city, town, or village with boundaries found within such county shall be reduced from thirty percent to twelve and one-half percent.

3. An addendum to the annual financial report submitted to the state auditor by the county, city, town, or village under section 105.145 shall contain an accounting of:

- (1) Annual general operating revenue as defined in section 479.350;
  - (2) The total revenues from fines, bond forfeitures, and court costs for minor traffic violations occurring within the county, city, town, or village, including amended charges from any minor traffic violations;
  - (3) The percent of annual general operating revenue from fines, bond forfeitures, and court costs for minor traffic violations occurring within the county, city, town, or village, including amended charges from any charged minor traffic violation, charged in the municipal court of that county, city, town, or village; and
  - (4) Said addendum shall be certified and signed by a representative with knowledge of the subject matter as to the accuracy of the addendum contents, under oath and under the penalty of perjury, and witnessed by a notary public.
4. On or before December 31, 2015, the state auditor shall set forth by rule a procedure for including the addendum information required by this section. The rule shall also allow reasonable opportunity for demonstration of compliance without unduly burdensome calculations.

**479.360. CERTIFICATION OF SUBSTANTIAL COMPLIANCE, FILED WITH STATE AUDITOR — PROCEDURES ADOPTED AND CERTIFIED. —** 1. Every county, city, town, and village shall file with the state auditor, together with its report due under section 105.145, its certification of its substantial compliance signed by its municipal judge with the municipal court procedures set forth in this subsection during the preceding fiscal year. The procedures to be adopted and certified include the following:

- (1) Defendants in custody pursuant to an initial arrest warrant issued by a municipal court have an opportunity to be heard by a judge in person, by telephone, or video conferencing as soon as practicable and not later than forty-eight hours on minor traffic violations and not later than seventy-two hours on other violations and, if not given that opportunity, are released;
- (2) Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest;
- (3) Defendants are not detained in order to coerce payment of fines and costs;
- (4) The municipal court has established procedures to allow indigent defendants to present evidence of their financial condition and takes such evidence into account if determining fines and costs and establishing related payment requirements;
- (5) The municipal court only assesses fines and costs as authorized by law;
- (6) No additional charge shall be issued for the failure to appear for a minor traffic violation;
- (7) The municipal court conducts proceedings in a courtroom that is open to the public and large enough to reasonably accommodate the public, parties, and attorneys;
- (8) The municipal court makes use of alternative payment plans and community service alternatives; and
- (9) The municipal court has adopted an electronic payment system or payment by mail for the payment of minor traffic violations.

2. On or before December 31, 2015, the state auditor shall set forth by rule a procedure for including the addendum information required by this section. The rule shall also allow reasonable opportunity for demonstration of compliance.

**479.362. FILING OF ADDENDUM, NOTICE TO REVENUE — FAILURE TO FILE, PROCEDURE. —** 1. The auditor shall notify to the director of the department of revenue whether or not county, city, town, or village has timely filed the addendums required by sections 479.359 and 479.360 and transmit copies of all addendums filed in accordance with sections 479.359 and 479.360. The director of the department of revenue shall review the information filed in the addendums as required by sections 479.359 and 479.360 and shall determine if any county, city, town, or village:

- (1) Failed to file an addendum; or
- (2) Failed to remit to the department of revenue the excess amount as set forth, certified, and signed in the addendum required by section 479.359.

The director of the department of revenue shall send a notice by certified mail to every county, city, town, or village failing to make the required filing or excess payment. The notice shall advise the county, city, town, or village of the failure and state that the county, city, town, or village is to correct the failure within sixty days of the date of the notice.

2. If a county, city, town, or village files the required addendum after notice from the director of the department of revenue, the director shall determine whether the county, city, town, or village failed to pay any excess amount required. If so, the director shall send an additional notice of failure to pay the excess amount and the county, city, town, or village shall pay the excess amount within sixty days of the date of the original notice.

3. A county, city, town, or village sent a notice by the director of the department of revenue for failure to pay or failure to file the required addendum under this section may seek judicial review of any determination made by the director of the department of revenue in the circuit court in which the municipal division is located by filing a petition under section 536.150 within thirty days of receipt of such determination. The county, city, town, or village shall give written notice of such filing to the director of revenue by certified mail. Within fifteen days of filing the petition, the county, city, town, or village shall deposit an amount equal to any amount in dispute into the registry of the circuit court by the county, city, town, or village. Failure to do so shall result in a dismissal of the case.

4. In addition to other available remedies, if the circuit court determines that the director of the department of revenue's determination as to the amount of excess funds or failure to file is in error, the circuit court shall return the amount not required to be remitted to the department of revenue to the county, city, town, or village immediately. The remainder of the funds held in the registry shall be paid to the director of the department of revenue for distribution under subsection 1 of section 479.359.

5. If any county, city, town, or village has failed to file an accurate or timely addendum or send excess revenue to the director of the department of revenue and the sixty-day period described in subsection 1 of this section has passed or there has been a final adjudication of a petition filed pursuant to subsection 3 of this section, whichever is later, the director of the department of revenue shall send a final notice to the clerk of the municipal court. If the county, city, town, or village fails to become compliant within five days after the date of the final notice, the director of the department of revenue shall send a notice of the noncompliance to the presiding judge of the circuit court in which any county, city, town, or village is located and the presiding judge of the circuit court shall immediately order the clerk of the municipal court to certify all pending matters in the municipal court until such county, city, town, or village files an accurate addendum and sends excess revenue to the director of the department of revenue pursuant to 479.359 and 479.360. All fines, bond forfeitures, and court costs ordered or collected while a county, city, town, or village has its municipal court matters reassigned under this subsection shall be paid to the director of the department of revenue to be distributed to the schools of the county in the same manner that proceeds of all penalties, forfeitures, and fines collection for any breach of the penal laws of the state are distributed and the county, city, town, or village shall not be entitled to such revenue. If the noncompliant county, city, town, or village thereafter files an accurate addendum and remits all the excess revenue owed pursuant to section 479.359 to the director of the department of revenue, the director of the department shall notify the clerk of the municipal court and the presiding judge of the circuit court that the county, city, town, or village may again hear matters and receive revenue from fines, bond forfeitures, and court costs subject to continuing compliance with section 479.359.

6. The state auditor shall have the authority to audit any addendum and any supporting documents submitted to the department of revenue by any county, city, town, or village.

**479.368. FAILURE TO TIMELY FILE, LOSS OF LOCAL SALES TAX REVENUE AND CERTAIN COUNTY SALES TAX REVENUE — ELECTION REQUIRED, WHEN. — 1.** Except for county sales taxes deposited in the "County Sales Tax Trust Fund" as defined in section 66.620, any county, city, town, or village failing to timely file the required addendums or remit the required excess revenues, if applicable, after the time period provided by the notice by the director of the department of revenue or any final determination on excess revenue by the court in a judicial proceeding, whichever is later, shall not receive from that date any amount of moneys to which the county, city, town, or village would otherwise be entitled to receive from revenues from local sales tax as defined in section 32.085.

(1) If any county, city, town, or village has failed to timely file the required addendums, the director of the department of revenue shall hold any moneys the noncompliant city, town, village, or county would otherwise be entitled to from local sales tax as defined in section 32.085 until a determination is made by the director of revenue that the noncompliant city, town, village, or county has come into compliance with the provisions of sections 479.359 and 479.360.

(2) If any county, city, town, or village has failed to remit the required excess revenue to the director of the department of revenue such general local sales tax revenues shall be distributed as provided in subsection 1 of section 479.359 by the director of the department of revenue in the amount of excess revenues that the county, city, town, or village failed to remit.

Upon a noncompliant city, town, village, or county coming into compliance with the provisions of sections 479.359 and 479.360, the director of the department of revenue shall disburse any remaining balance of funds held under this subsection after satisfaction of amounts due under section 479.359. Moneys held by the director of the department of revenue under this subsection shall not be deemed to be state funds and shall not be commingled with any funds of the state.

2. Any city, town, village, or county that participates in the distribution of local sales tax in sections 66.600 to 66.630 and fails to timely file the required addendums or remit the required excess revenues, if applicable, after the time period provided by the notice by the director of the department of revenue or any final determination on excess revenue by the court in a judicial proceeding, whichever is later, shall not receive any amount of moneys to which said city, town, village, or county would otherwise be entitled under 66.600 to 66.630. The director of the department of revenue shall notify the county to which the duties of the director have been delegated under section 66.601 of any noncompliant city, town, village, or county and the county shall remit to the director of the department of revenue any moneys to which said city, town, village, or county would otherwise be entitled. No disbursements to the noncompliant city, town, village, or county shall be permitted until a determination is made by the director of revenue that the noncompliant city, town, village, or county has come into compliance with the provisions of sections 479.359 and 479.360.

(1) If such county, city, town, or village has failed to timely file the required addendums, the director of the department of revenue shall hold any moneys the noncompliant city, town, village, or county would otherwise be entitled to under sections 66.600 to 66.630 until a determination is made by the director of revenue that the noncompliant city, town, village, or county has come into compliance with the provisions of sections 479.359 and 479.360.

(2) If any county, city, town, or village has failed to remit the required excess revenue to the director of the department of revenue, the director shall distribute such moneys the

county, city, town, or village would otherwise be entitled to under sections 66.600 to 66.630 in the amount of excess revenues that the city, town, village, or county failed to remit as provided in subsection 1 of section 479.359.

Upon a noncompliant city, town, village, or county coming into compliance with the provisions of sections 479.359 and 479.360, the director of the department of revenue shall disburse any remaining balance of funds held under this subsection after satisfaction of amounts due under section 479.359 and shall notify the county to which the duties of the director have been delegated under section 66.601 that such compliant city, town, village, or county is entitled to distributions under sections 66.600 to 66.630. If a noncompliant city, town, village, or county becomes disincorporated, any moneys held by the director of the department of revenue shall be distributed to the schools of the county in the same manner that proceeds of all penalties, forfeitures, and fines collected for any breach of the penal laws of the state are distributed. Moneys held by the director of the department of revenue under this subsection shall not be deemed to be state funds and shall not be commingled with any funds of the state.

3. In addition to the provisions of subsection 1 of this section, any county that fails to remit the required excess revenue as required by section 479.359 shall have an election upon the question of disincorporation under article VI, section 5 of the Constitution of Missouri, and any such city, town, or village that fails to remit the required excess revenue as required by section 479.359 shall have an election upon the question of disincorporation according to the following procedure:

(1) The election upon the question of disincorporation of such city, town, or village shall be held on the next general election day, as defined by section 115.121;

(2) The director of the department of revenue shall notify the election authorities responsible for conducting the election according to the terms of section 115.125 and the county governing body in which the city, town, or village is located not later than 5:00 p.m. on the tenth Tuesday prior to the election of the amount of the excess revenues due;

(3) The question shall be submitted to the voters of such city, town, or village in substantially the following form:

"The city/town/village of ..... has kept more revenue from fines, bond forfeitures, and court costs for minor traffic violations than is permitted by state law and failed to remit those revenues to the county school fund. Shall the city/town/village of ..... be dissolved?"

YES  NO

(4) Upon notification by the director of the department of revenue, the county governing body in which the city, town, or village is located shall give notice of the election for eight consecutive weeks prior to the election by publication in a newspaper of general circulation published in the city, town, or village, or if there is no such newspaper in the city, town, or village, then in the newspaper in the county published nearest the city, town, or village; and

(5) Upon the affirmative vote of sixty percent of those persons voting on the question, the county governing body shall disincorporate the city, town, or village.

479.372. RULEMAKING AUTHORITY. — Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 479.350 to 479.372 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, 2015, shall be invalid and void.

**479.375. SEVERABILITY CLAUSE.** — **If any provision of this act or their application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.**

Approved July 9, 2015

SB 12 [HCS SS SCS SB 12]

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

**Modifies provisions relating to agriculture**

AN ACT to repeal sections 262.900, 275.352, 277.040, 281.065, 304.180, 442.571, and 537.325, RSMo, and to enact in lieu thereof eight new sections relating to agriculture.

SECTION

- A. Enacting clause.
- 262.900. Definitions — application, requirements — board established, members, duties — public hearing — ordinance — property exempt from taxation — sales tax revenues, deposit of — fund created — rulemaking authority.
- 275.352. Beef producers assessment, effect if federal assessment adopted — limitation on collection of fees — checkoff fee petition, vote — rulemaking authority.
- 277.040. Application for license — issuance — disposition of fees.
- 281.065. Bond or insurance required — deductible clause accepted, when — new surety, when — liability, effect of chapter on.
- 304.180. Regulations as to weight — axle load, tandem axle defined — idle reduction technology, increase in maximum gross weight permitted, amount — hauling livestock, milk, or grain, total gross weight permitted — requirements during disasters.
- 414.300. Labeling of motor fuel pumps, renewable fuels — rulemaking authority.
- 442.571. Aliens or foreign business, limitations on owning agricultural land — violation — acquisitions submitted to department, when — rulemaking authority.
- 537.325. Definitions — liability for equine activities, limitations, exceptions — signs required, contents.

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

**SECTION A. ENACTING CLAUSE.** — Sections 262.900, 275.352, 277.040, 281.065, 304.180, 442.571, and 537.325, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 262.900, 275.352, 277.040, 281.065, 304.180, 414.300, 442.571, and 537.325, to read as follows:

**262.900. DEFINITIONS — APPLICATION, REQUIREMENTS — BOARD ESTABLISHED, MEMBERS, DUTIES — PUBLIC HEARING — ORDINANCE — PROPERTY EXEMPT FROM TAXATION — SALES TAX REVENUES, DEPOSIT OF — FUND CREATED — RULEMAKING AUTHORITY.** — 1. As used in this section, the following terms mean:

(1) "Agricultural products", an agricultural, horticultural, viticultural, or vegetable product, growing of grapes that will be processed into wine, bees, honey, fish or other aquacultural product, planting seed, livestock, a livestock product, a forestry product, poultry or a poultry product, either in its natural or processed state, that has been produced, processed, or otherwise had value added to it in this state;

(2) "Blighted area", that portion of the city within which the legislative authority of such city determines that by reason of age, obsolescence, inadequate, or outmoded design or physical deterioration have become economic and social liabilities, and that such conditions are conducive to ill health, transmission of disease, crime or inability to pay reasonable taxes;

- (3) "Department", the department of agriculture;
- (4) "Domesticated animal", cattle, calves, sheep, swine, ratite birds including but not limited to ostrich and emu, llamas, alpaca, buffalo, elk documented as obtained from a legal source and not from the wild, goats, or horses, other equines, or rabbits raised in confinement for human consumption;
- (5) "Grower UAZ", a type of UAZ:
- (a) That can either grow produce, raise livestock, or produce other value-added agricultural products;
- (b) That does not exceed fifty laying hens, six hundred fifty broiler chickens, or thirty domesticated animals;
- (6) "Livestock", cattle, calves, sheep, swine, ratite birds including but not limited to ostrich and emu, aquatic products as defined in section 277.024, llamas, alpaca, buffalo, elk documented as obtained from a legal source and not from the wild, goats, or horses, other equines, or rabbits raised in confinement for human consumption;
- (7) "Locally grown", a product that was grown or raised in the same county or city not within a county in which the UAZ is located or in an adjoining county or city not within a county. For a product raised or sold in a city not within a county, locally grown also includes an adjoining county with a charter form of government with more than nine hundred fifty thousand inhabitants and those adjoining said county;
- (8) ["Processing UAZ", a type of UAZ:
- (a) That processes livestock or poultry for human consumption;
- (b) That meets federal and state processing laws and standards;
- (c) Is a qualifying small business approved by the department;
- (9)] "Meat", any edible portion of livestock or poultry carcass or part thereof;
- [(10)] **(9)** "Meat product", anything containing meat intended for or capable of use for human consumption, which is derived, in whole or in part, from livestock or poultry;
- [(11)] **(10)** "Mobile unit", the same as motor vehicle as defined in section 301.010;
- (11)** "Poultry", any domesticated bird intended for human consumption;
- (12)** "Processing UAZ", a type of UAZ:
- (a) That processes livestock, poultry, or produce for human consumption;**
- (b) That meets federal and state processing laws and standards;**
- (c) Is a qualifying small business approved by the department;**
- (13)** "Qualifying small business", those enterprises which are established within an Urban Agricultural Zone subsequent to its creation, and which meet the definition established for the Small Business Administration and set forth in Section [121.301] **121.201** of Part 121 of Title 13 of the Code of Federal Regulations;
- [(13)] **(14)** "Value-added agricultural products", any product or products that are the result of:
- (a) Using an agricultural product grown in this state to produce a meat or dairy product in this state;
- (b) A change in the physical state or form of the original agricultural product;
- (c) An agricultural product grown in this state which has had its value enhanced by special production methods such as organically grown products; or
- (d) A physical segregation of a commodity or agricultural product grown in this state that enhances its value such as identity preserved marketing systems;
- [(14)] **(15)** "Urban agricultural zone" or "UAZ", a zone within a metropolitan statistical area as defined by the United States Office of Budget and Management that has one or more of the following entities that is a qualifying small business and approved by the department, as follows:
- (a) Any organization or person who grows produce or other agricultural products;
- (b) Any organization or person that raises livestock or poultry;
- (c) Any organization or person who processes livestock or poultry;

- (d) Any organization that sells at a minimum seventy-five percent locally grown food;
- [15] **(16)** "Vending UAZ", a type of UAZ:
- (a) That sells produce, meat, or value-added locally grown agricultural goods;
  - (b) That is able to accept food stamps under the provisions of the Supplemental Nutrition Assistance Program as a form of payment; and
  - (c) Is a qualifying small business that is approved by the department for an UAZ vendor license.
2. (1) A person or organization shall submit to any incorporated municipality an application to develop an UAZ on a blighted area of land. Such application shall demonstrate or identify on the application:
- (a) If the person or organization is a grower UAZ, processing UAZ, vending UAZ, or a combination of all three types of UAZs provided in this paragraph, in which case the person or organization shall meet the requirements of each type of UAZ in order to qualify;
  - (b) The number of jobs to be created;
  - (c) The types of products to be produced; and
  - (d) If applying for a vending UAZ, the ability to accept food stamps under the provisions of the Supplemental Nutrition Assistance Program if selling products to consumers.
- (2) A municipality shall review and modify the application as necessary before either approving or denying the request to establish an UAZ.
- (3) Approval of the UAZ by such municipality shall be reviewed five and ten years after the development of the UAZ. After twenty-five years, the UAZ shall dissolve.

If the municipality finds during its review that the UAZ is not meeting the requirements set out in this section, the municipality may dissolve the UAZ.

3. The governing body of any municipality planning to seek designation of an urban agricultural zone shall establish an urban agricultural zone board. The number of members on the board shall be seven. One member of the board shall be appointed by the school district or districts located within the area proposed for designation of an urban agricultural zone. Two members of the board shall be appointed by other affected taxing districts. The remaining four members shall be chosen by the chief elected officer of the municipality. The four members chosen by the chief elected officer of the municipality shall all be residents of the county or city not within a county in which the UAZ is to be located, and at least one of such four members shall have experience in or represent organizations associated with sustainable agriculture, urban farming, community gardening, or any of the activities or products authorized by this section for UAZs.

4. The school district member and the two affected taxing district members shall each have initial terms of five years. Of the four members appointed by the chief elected official, two shall have initial terms of four years, and two shall have initial terms of three years. Thereafter, members shall serve terms of five years. Each member shall hold office until a successor has been appointed. All vacancies shall be filled in the same manner as the original appointment. For inefficiency or neglect of duty or misconduct in office, a member of the board may be removed by the applicable appointing authority.

5. A majority of the members shall constitute a quorum of such board for the purpose of conducting business and exercising the powers of the board and for all other purposes. Action may be taken by the board upon a vote of a majority of the members present.

6. The members of the board annually shall elect a chair from among the members.

7. The role of the board shall be to conduct the activities necessary to advise the governing body on the designation of an urban agricultural zone and any other advisory duties as determined by the governing body. The role of the board after the designation of an urban agricultural zone shall be review and assessment of zone activities.

8. Prior to the adoption of an ordinance proposing the designation of an urban agricultural zone, the urban agricultural board shall fix a time and place for a public hearing and notify each

taxing district located wholly or partially within the boundaries of the proposed urban agricultural zone. The board shall send, by certified mail, a notice of such hearing to all taxing districts and political subdivisions in the area to be affected and shall publish notice of such hearing in a newspaper of general circulation in the area to be affected by the designation at least twenty days prior to the hearing but not more than thirty days prior to the hearing. Such notice shall state the time, location, date, and purpose of the hearing. At the public hearing any interested person or affected taxing district may file with the board written objections to, or comments on, and may be heard orally in respect to, any issues embodied in the notice. The board shall hear and consider all protests, objections, comments, and other evidence presented at the hearing. The hearing may be continued to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the subsequent hearing.

9. Following the conclusion of the public hearing required under subsection 8 of this section, the governing authority of the municipality may adopt an ordinance designating an urban agricultural zone.

10. The real property of the UAZ shall not be subject to assessment or payment of ad valorem taxes on real property imposed by the cities affected by this section, or by the state or any political subdivision thereof, for a period of up to twenty-five years as specified by ordinance under subsection 9 of this section, except to such extent and in such amount as may be imposed upon such real property during such period, as was determined by the assessor of the county in which such real property is located, or, if not located within a county, then by the assessor of such city, in an amount not greater than the amount of taxes due and payable thereon during the calendar year preceding the calendar year during which the urban agricultural zone was designated. The amounts of such tax assessments shall not be increased during such period so long as the real property is used in furtherance of the activities provided under the provisions of subdivision [(13)] **(15)** of subsection 1 of this section. At the conclusion of the period of abatement provided by the ordinance, the property shall then be reassessed. If only a portion of real property is used as an UAZ, then only that portion of real property shall be exempt from assessment or payment of ad valorem taxes on such property, as provided by this section.

11. If the water services for the UAZ are provided by the municipality, the municipality may authorize a grower UAZ to pay wholesale water rates[. If available,] for the cost of water consumed on the UAZ [and]. **If available, the UAZ may** pay fifty percent of the standard cost to hook onto the water source.

12. (1) Any local sales tax revenues received from the sale of agricultural products sold in the UAZ, **or any local sales tax revenues received by a mobile unit associated with a vending UAZ selling agricultural products in the municipality in which the vending UAZ is located,** shall be deposited in the urban agricultural zone fund established in subdivision (2) of this subsection. An amount equal to one percent shall be retained by the director of revenue for deposit in the general revenue fund to offset the costs of collection.

(2) There is hereby created in the state treasury the "Urban Agricultural Zone Fund", which shall consist of money collected under subdivision (1) of this subsection. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, shall be used for the purposes authorized by this section. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. **Fifty percent of fund moneys shall be made available to school districts. The remaining fifty percent of fund moneys shall be allocated to municipalities that have urban agricultural zones based upon the municipality's percentage of local sales tax revenues deposited into the fund. The municipalities shall, upon appropriation, provide fund moneys to urban agricultural zones within the municipality for improvements.** School districts may apply to the department for money in

the fund to be used for the development of curriculum on or the implementation of urban farming practices under the guidance of the University of Missouri extension service and a certified vocational agricultural instructor. The funds are to be distributed on a competitive basis within the school district or districts in which the UAZ is located pursuant to rules to be promulgated by the department, with special consideration given to the relative number of students eligible for free and reduced-price lunches attending the schools within such district or districts.

13. 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.

14. The provisions of this section shall not apply to any county with a charter form of government and with more than three hundred thousand but fewer than four hundred fifty thousand inhabitants.

**275.352. BEEF PRODUCERS ASSESSMENT, EFFECT IF FEDERAL ASSESSMENT ADOPTED — LIMITATION ON COLLECTION OF FEES — CHECKOFF FEE PETITION, VOTE — RULEMAKING AUTHORITY. — 1.** If a national referendum among beef producers passes and a federal assessment on beef producers is adopted pursuant to federal law, no state fees shall be collected under the provisions of this chapter, in excess of a commensurate amount credited against the obligation to pay any such federal assessment. Upon adoption of the federal assessment, beef shall be exempt from the refund provision of section 275.360.

**2. Notwithstanding the provisions of subsection 1 of this section to the contrary, a beef commodity council may only collect state fees if a referendum is approved on or after August 28, 2015, in the manner provided under the provisions of subsections 3 to 12 of this section.**

**3. A beef commodity council established pursuant to the provisions of this chapter may submit to the director a petition approved by a two-thirds vote of the council or signed by twenty-five percent of Missouri beef producers to impose or modify a Missouri beef checkoff fee upon beef producers. Any petition submitted to establish or modify a Missouri beef checkoff fee, and the referendum to follow, shall specify the amount and manner of collection of the fee to be assessed. In no case shall the Missouri beef checkoff fee exceed the amount of the federal assessment on beef. Upon receipt of such petition the director shall:**

- (1) Determine the legal sufficiency of the petition;**
- (2) Establish a list of beef producers or make any such existing list current;**
- (3) Hold a public hearing or hearings on the proposed program;**
- (4) Publish a notice to beef producers advising them:**
  - (a) That a petition has been filed with the director;**
  - (b) The time and place or places of the public hearing or hearings; and**
  - (c) That to be eligible to vote in the referendum the producer shall register. The**

**director shall give notice in publications devoted to agriculture which have a total statewide circulation of not less than two hundred twenty-five thousand, at least one month prior to the hearing. The fees for the publication of notice shall be advanced in cash to the director by the beef commodity council and no publication of notice shall be paid for by state funds;**

**(5) Provide forms to enable producers to register, which forms shall include the producer's name, mailing address, and the yearly average quantity of beef cattle sold by him or her in the three years preceding the date of the notice, or in such lesser period as a producer has sold beef cattle;**

(6) Approve the petition, in whole or as revised, or disapprove the petition depending upon the determinations made after public hearing;

(7) After approval of a petition, hold a referendum among the beef producers to determine whether or not the Missouri beef checkoff fee shall be imposed.

4. The director shall determine the sufficiency of the petition within twenty-one days after it is submitted to him or her and shall publish notice of the public hearing and registration requirements giving at least ten days' notice prior to public hearing and thirty days' notice to register prior to the referendum.

5. If a majority of the votes cast are in favor of adoption, and if those producers voting in favor of adoption represent a majority of the production of all registered producers casting votes, the petition is adopted.

6. If the required percentage by number and by production of those voting is in favor of the adoption of the proposal in the petition, the director shall declare the proposal to be adopted.

7. A proposal to change the amount of the fee to be collected or to make other changes may be made by a two-thirds vote of the council or by petition of twenty-five percent of the commodity producers. The proposal shall then be submitted to referendum under which the same percentages by number and production shall be required for approval as were required for establishment of the original merchandising program. However, the council, by two-thirds vote, may lower the amount of the fee to be collected, or may thereafter increase the amount of the fee to not more than the rate originally approved without a referendum vote. Such increase or decrease of fees shall not become effective except at the beginning of the next state fiscal year.

8. A proposal to terminate the Missouri beef checkoff fee may be made by a majority of the council or by petition of ten percent of the registered beef producers. The proposed termination shall be submitted to referendum under which a simple majority of those voting shall be required for termination.

9. No referendum to change the amount of fee, or to make other major changes may be held within twelve months of a referendum conducted for a similar purpose.

10. Fees collected pursuant to this section shall be collected in the same manner as that used to collect the federal assessment on beef. The department shall keep and account for the state and federal assessments separately. State fees collected pursuant to this section shall be subject to the refund provision provided under section 275.360.

11. Notwithstanding the provisions of section 275.350 to the contrary, fees imposed under this section shall be collected and remitted to the Missouri Beef Industry Council, which shall deposit such fees in a separate account from all other funds. Funds derived from the fees established under this section shall only be used to research, market, educate, and promote beef products and production.

12. The department may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010 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, 2015, shall be invalid and void.

**277.040. APPLICATION FOR LICENSE — ISSUANCE — DISPOSITION OF FEES.** — 1. Any person engaged in establishing or operating a livestock sale or market for the purpose aforesaid shall file with the state veterinarian of the state department of agriculture an application for a license to transact such business under the provisions of this chapter. The application shall state

the nature of the business and the city, township and county, and the complete post office address at which the business is to be conducted, together with any additional information that the state veterinarian requires, and a separate license shall be secured for each place where a sale is to be conducted such as is defined and required to be licensed under the provisions of this chapter.

2. The state veterinarian shall then issue to the applicant a license upon payment of an annual license fee to be fixed by rule or regulation entitling the applicant to conduct a livestock sale or market for the period of the license year or for any unexpired portion thereof, unless the license is revoked as herein provided.

3. All license fees collected under this chapter **shall not yield revenue greater than the total cost of administering this chapter during the ensuing year. All license fees collected** shall be made payable to the order of the state treasurer and deposited with him to the credit of the "Livestock Sales and Markets Fees Fund" hereby created, subject to appropriation by the general assembly, to inure to the use and benefit of the animal health division of the department of agriculture.

4. No business entity, whether a proprietorship, partnership or corporation shall be issued a livestock market license if any such proprietor, partner or, if a corporation, any officer or major shareholder thereof, participated in the violation of any provision of this chapter within the preceding five years, which resulted in the revocation of a livestock market license.

**281.065. BOND OR INSURANCE REQUIRED — DEDUCTIBLE CLAUSE ACCEPTED, WHEN — NEW SURETY, WHEN — LIABILITY, EFFECT OF CHAPTER ON. — 1.** The director shall not issue a certified commercial applicator's license until the applicant or the employer of the applicant has furnished evidence of financial responsibility with the director consisting either of a surety bond or a liability insurance policy or certification thereof, protecting persons who may suffer legal damages as a result of the operations of the applicant; except that, such surety bond or liability insurance policy need not apply to damages or injury to crops, plants or land being worked upon by the applicant. **Following the receipt of the initial license, the certified commercial applicator shall not be required to furnish evidence of financial responsibility to the department for the purpose of license renewal unless upon request. Annual renewals for surety bonds or liability insurance shall be maintained at the business location from which the certified commercial applicator is licensed. Valid surety bonds or liability insurance certificates shall be available for inspection by the director or his or her designee at a reasonable time during regular business hours or, upon a request in writing, the director shall be furnished a copy of the surety bond or liability insurance certificate within ten working days of receipt of the request.**

2. The amount of the surety bond or liability insurance required by this section shall be not less than [twenty-five] **fifty** thousand dollars [for property damage and bodily injury insurance, each separately and] for each occurrence. Such surety bond or liability insurance shall be maintained at not less than that sum at all times during the licensed period. The director shall be notified **by the surety or insurer** within twenty days prior to any **cancellation or** reduction [at the request of the bond- or policyholder or any cancellation of such] **of the** surety bond or liability insurance [by the surety or insurer, as long as the total and aggregate of the surety and insurer for all claims shall be limited to the face of the bond or liability insurance policy]. If the surety bond or liability insurance policy which provides the financial responsibility for the [applicant] **certified commercial applicator** is provided by the employer of the [applicant] **certified commercial applicator**, the employer of the [applicant] **certified commercial applicator** shall immediately notify the director upon the termination of the employment of the [applicant] **certified commercial applicator** or when a condition exists under which the [applicant] **certified commercial applicator** is no longer provided bond or insurance coverage by the employer. The [applicant] **certified commercial applicator** shall then immediately execute a surety bond or an insurance policy to cover the financial responsibility requirements of this section and [shall furnish the director with evidence of financial responsibility as required

by this section] **the certified commercial applicator or the applicator's employer shall maintain the surety bond or liability insurance certificate at the business location from which the certified commercial applicator is licensed.** The director may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount not exceeding one thousand dollars; except that, if the bond- or policyholder has not satisfied the requirement of the deductible amount in any prior legal claim, such deductible clause shall not be accepted by the director unless the bond- or policyholder [furnishes the director with] **executes and maintains** a surety bond or liability insurance which shall satisfy the amount of the deductible as to all claims that may arise in his **or her** application of pesticides.

3. If the surety [furnished] becomes unsatisfactory, the bond- or policyholder shall[, upon notice,] immediately execute a new bond or insurance **policy and maintain the surety bond or liability insurance certificate at the business location from which the certified commercial applicator is licensed, and** if he **or she** fails to do so, the director shall cancel his **or her** license, or deny the license of an applicant, and give him **or her** notice of cancellation or denial, and it shall be unlawful thereafter for the applicant to engage in the business of using pesticides until the bond or insurance is brought into compliance with the requirements of subsection 1 of this section. If the bond- or policyholder does not execute a new bond or insurance policy within sixty days of expiration of such bond or policy, the licensee shall be required to satisfy all the requirements for licensure as if never before licensed.

4. Nothing in sections 281.010 to 281.115 shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though such use conforms to the rules and regulations of the director.

**304.180. REGULATIONS AS TO WEIGHT — AXLE LOAD, TANDEM AXLE DEFINED — IDLE REDUCTION TECHNOLOGY, INCREASE IN MAXIMUM GROSS WEIGHT PERMITTED, AMOUNT — HAULING LIVESTOCK, MILK, OR GRAIN, TOTAL GROSS WEIGHT PERMITTED — REQUIREMENTS DURING DISASTERS.** — 1. No vehicle or combination of vehicles shall be moved or operated on any highway in this state having a greater weight than twenty thousand pounds on one axle, no combination of vehicles operated by transporters of general freight over regular routes as defined in section 390.020 shall be moved or operated on any highway of this state having a greater weight than the vehicle manufacturer's rating on a steering axle with the maximum weight not to exceed twelve thousand pounds on a steering axle, and no vehicle shall be moved or operated on any state highway of this state having a greater weight than thirty-four thousand pounds on any tandem axle; the term "tandem axle" shall mean a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart.

2. An "axle load" is defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle.

3. Subject to the limit upon the weight imposed upon a highway of this state through any one axle or on any tandem axle, the total gross weight with load imposed by any group of two or more consecutive axles of any vehicle or combination of vehicles shall not exceed the maximum load in pounds as set forth in the following table:

| Distance in feet between the extremes of any group of two or more consecutive axles, measured to the nearest foot, except where indicated otherwise | Maximum load in pounds |         |         |         |         |  |
|---|------------------------|---------|---------|---------|---------|--|
|   | 2 axles                | 3 axles | 4 axles | 5 axles | 6 axles |  |
| 4   | 34,000                 |         |         |         |         |  |
| 5   | 34,000                 |         |         |         |         |  |
| 6   | 34,000                 |         |         |         |         |  |

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|             |        |        |        |        |        |
|-------------|--------|--------|--------|--------|--------|
| 7           | 34,000 |        |        |        |        |
| 8           | 34,000 | 34,000 |        |        |        |
| More than 8 | 38,000 | 42,000 |        |        |        |
| 9           | 39,000 | 42,500 |        |        |        |
| 10          | 40,000 | 43,500 |        |        |        |
| 11          | 40,000 | 44,000 |        |        |        |
| 12          | 40,000 | 45,000 | 50,000 |        |        |
| 13          | 40,000 | 45,500 | 50,500 |        |        |
| 14          | 40,000 | 46,500 | 51,500 |        |        |
| 15          | 40,000 | 47,000 | 52,000 |        |        |
| 16          | 40,000 | 48,000 | 52,500 | 58,000 |        |
| 17          | 40,000 | 48,500 | 53,500 | 58,500 |        |
| 18          | 40,000 | 49,500 | 54,000 | 59,000 |        |
| 19          | 40,000 | 50,000 | 54,500 | 60,000 |        |
| 20          | 40,000 | 51,000 | 55,500 | 60,500 | 66,000 |
| 21          | 40,000 | 51,500 | 56,000 | 61,000 | 66,500 |
| 22          | 40,000 | 52,500 | 56,500 | 61,500 | 67,000 |
| 23          | 40,000 | 53,000 | 57,500 | 62,500 | 68,000 |
| 24          | 40,000 | 54,000 | 58,000 | 63,000 | 68,500 |
| 25          | 40,000 | 54,500 | 58,500 | 63,500 | 69,000 |
| 26          | 40,000 | 55,500 | 59,500 | 64,000 | 69,500 |
| 27          | 40,000 | 56,000 | 60,000 | 65,000 | 70,000 |
| 28          | 40,000 | 57,000 | 60,500 | 65,500 | 71,000 |
| 29          | 40,000 | 57,500 | 61,500 | 66,000 | 71,500 |
| 30          | 40,000 | 58,500 | 62,000 | 66,500 | 72,000 |
| 31          | 40,000 | 59,000 | 62,500 | 67,500 | 72,500 |
| 32          | 40,000 | 60,000 | 63,500 | 68,000 | 73,000 |
| 33          | 40,000 | 60,000 | 64,000 | 68,500 | 74,000 |
| 34          | 40,000 | 60,000 | 64,500 | 69,000 | 74,500 |
| 35          | 40,000 | 60,000 | 65,500 | 70,000 | 75,000 |
| 36          |        | 60,000 | 66,000 | 70,500 | 75,500 |
| 37          |        | 60,000 | 66,500 | 71,000 | 76,000 |
| 38          |        | 60,000 | 67,500 | 72,000 | 77,000 |
| 39          |        | 60,000 | 68,000 | 72,500 | 77,500 |
| 40          |        | 60,000 | 68,500 | 73,000 | 78,000 |
| 41          |        | 60,000 | 69,500 | 73,500 | 78,500 |
| 42          |        | 60,000 | 70,000 | 74,000 | 79,000 |
| 43          |        | 60,000 | 70,500 | 75,000 | 80,000 |
| 44          |        | 60,000 | 71,500 | 75,500 | 80,000 |
| 45          |        | 60,000 | 72,000 | 76,000 | 80,000 |
| 46          |        | 60,000 | 72,500 | 76,500 | 80,000 |
| 47          |        | 60,000 | 73,500 | 77,500 | 80,000 |
| 48          |        | 60,000 | 74,000 | 78,000 | 80,000 |
| 49          |        | 60,000 | 74,500 | 78,500 | 80,000 |
| 50          |        | 60,000 | 75,500 | 79,000 | 80,000 |
| 51          |        | 60,000 | 76,000 | 80,000 | 80,000 |
| 52          |        | 60,000 | 76,500 | 80,000 | 80,000 |
| 53          |        | 60,000 | 77,500 | 80,000 | 80,000 |
| 54          |        | 60,000 | 78,000 | 80,000 | 80,000 |
| 55          |        | 60,000 | 78,500 | 80,000 | 80,000 |
| 56          |        | 60,000 | 79,500 | 80,000 | 80,000 |
| 57          |        | 60,000 | 80,000 | 80,000 | 80,000 |

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Notwithstanding the above table, two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

4. Whenever the state highways and transportation commission finds that any state highway bridge in the state is in such a condition that use of such bridge by vehicles of the weights specified in subsection 3 of this section will endanger the bridge, or the users of the bridge, the commission may establish maximum weight limits and speed limits for vehicles using such bridge. The governing body of any city or county may grant authority by act or ordinance to the state highways and transportation commission to enact the limitations established in this section on those roadways within the purview of such city or county. Notice of the weight limits and speed limits established by the commission shall be given by posting signs at a conspicuous place at each end of any such bridge.

5. Nothing in this section shall be construed as permitting lawful axle loads, tandem axle loads or gross loads in excess of those permitted under the provisions of Section 127 of Title 23 of the United States Code.

6. Notwithstanding the weight limitations contained in this section, any vehicle or combination of vehicles operating on highways other than the interstate highway system may exceed single axle, tandem axle and gross weight limitations in an amount not to exceed two thousand pounds. However, total gross weight shall not exceed eighty thousand pounds, except as provided in subsections 9 and 10 of this section.

7. Notwithstanding any provision of this section to the contrary, the department of transportation shall issue a single-use special permit, or upon request of the owner of the truck or equipment, shall issue an annual permit, for the transporting of any concrete pump truck or well-drillers' equipment. The department of transportation shall set fees for the issuance of permits pursuant to this subsection. Notwithstanding the provisions of section 301.133, concrete pump trucks or well-drillers' equipment may be operated on state-maintained roads and highways at any time on any day.

8. Notwithstanding the provision of this section to the contrary, the maximum gross vehicle limit and axle weight limit for any vehicle or combination of vehicles equipped with an idle reduction technology may be increased by a quantity necessary to compensate for the additional weight of the idle reduction system as provided for in 23 U.S.C. Section 127, as amended. In no case shall the additional weight increase allowed by this subsection be greater than five hundred fifty pounds. Upon request by an appropriate law enforcement officer, the vehicle operator shall provide proof that the idle reduction technology is fully functional at all times and that the gross weight increase is not used for any purpose other than for the use of idle reduction technology.

9. [Notwithstanding subsection 3 of this section or any other provision of law to the contrary, the total gross weight of any vehicle or combination of vehicles hauling livestock may be as much as, but shall not exceed, eighty-five thousand five hundred pounds while operating on U.S. Highway 36 from St. Joseph to U.S. Highway 63, on U.S. Highway 65 from the Iowa state line to U.S. Highway 36, and on U.S. Highway 63 from the Iowa state line to U.S. Highway 36, and on U.S. Highway 63 from U.S. Highway 36 to Missouri Route 17. The provisions of this subsection shall not apply to vehicles operated on the Dwight D. Eisenhower System of Interstate and Defense Highways.

10.] Notwithstanding any provision of this section or any other law to the contrary, the total gross weight of any vehicle or combination of vehicles hauling milk, from a farm to a processing facility or livestock may be as much as, but shall not exceed, eighty-five thousand five hundred pounds while operating on highways other than the interstate highway system. The provisions of this subsection shall not apply to vehicles operated and operating on the Dwight D. Eisenhower System of Interstate and Defense Highways.

[11.] **10. Notwithstanding any provision of this section or any other law to the contrary, any vehicle or combination of vehicles hauling grain or grain co-products during**

times of harvest may be as much as, but not exceeding, ten percent over the maximum weight limitation allowable under subsection 3 of this section while operating on highways other than the interstate highway system. The provisions of this subsection shall not apply to vehicles operated and operating on the Dwight D. Eisenhower System of Interstate and Defense Highways.

11. Notwithstanding any provision of this section or any other law to the contrary, the department of transportation shall issue emergency utility response permits for the transporting of utility wires or cables, poles, and equipment needed for repair work immediately following a disaster where utility service has been disrupted. Under exigent circumstances, verbal approval of such operation may be made either by the motor carrier compliance supervisor or other designated motor carrier services representative. Utility vehicles and equipment used to assist utility companies granted special permits under this subsection may be operated and transported on state-maintained roads and highways at any time on any day. The department of transportation shall promulgate all necessary rules and regulations for the administration 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, 2014, shall be invalid and void.

**414.300. LABELING OF MOTOR FUEL PUMPS, RENEWABLE FUELS — RULEMAKING AUTHORITY. — 1. No later than January 1, 2016, the department of agriculture shall propose a rule regarding renewable fuels and the labeling of motor fuel pumps.**

**2. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly 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, 2015, shall be invalid and void.**

**442.571. ALIENS OR FOREIGN BUSINESS, LIMITATIONS ON OWNING AGRICULTURAL LAND — VIOLATION — ACQUISITIONS SUBMITTED TO DEPARTMENT, WHEN — RULEMAKING AUTHORITY. — 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] A sale[,] or transfer[, or acquisition] of any agricultural land in this state shall [occur unless such sale, transfer, or acquisition is approved by] **be submitted to the director of the department of agriculture for review in accordance with subsection 3 of this section only if there is no completed Internal Revenue Service Form W-9 signed by the purchaser.** 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, **provided, however, that no security interest in such agricultural land shall be divested or invalidated by such violation.****

2. Any alien or foreign business who acquires agricultural land in violation of sections 442.560 to 442.592 remains in violation of sections 442.560 to 442.592 for as long as he or she holds an interest in the land, **provided, however, that no security interest in such agricultural land shall be divested or invalidated by such violation.**

3. [All] **Subject to the provisions of subsection 1 of this section**, 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, 2014, shall be invalid and void.

**537.325. DEFINITIONS — LIABILITY FOR EQUINE ACTIVITIES, LIMITATIONS, EXCEPTIONS — SIGNS REQUIRED, CONTENTS.** — 1. As used in this section, unless the context otherwise requires, the following words and phrases shall mean:

(1) "Engages in an equine activity", riding, training, assisting in medical treatment of, driving or being a passenger upon an equine, whether mounted or unmounted, or any person assisting a participant or any person involved in show management. The term "engages in an equine activity" does not include being a spectator at an equine activity, except in cases where the spectator places himself in an unauthorized area;

(2) "Equine", a horse, pony, mule, donkey or hinny;

(3) "Equine activity":

(a) Equine shows, fairs, competitions, performances or parades that involve any or all breeds of equines and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding and western games and hunting;

(b) Equine training or teaching activities or both;

(c) Boarding equines;

(d) Riding, inspecting or evaluating an equine belonging to another, whether or not the owner has received [some] **or currently receives** monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect or evaluate the equine;

(e) Rides, trips, hunts or other equine activities [of any type] however informal or impromptu that are sponsored by an equine activity sponsor; and

(f) Placing or replacing horseshoes on an equine;

(4) "Equine activity sponsor", an individual, group, club, partnership or corporation, whether or not operating for profit or nonprofit, **legal entity**, or any employee thereof, which sponsors, organizes or provides the facilities for, an equine activity, including but not limited to pony clubs, 4-H clubs, hunt clubs, riding clubs, school- and college-sponsored classes, programs and activities, therapeutic riding programs and operators, instructors and promoters of equine facilities, including but not limited to stables, clubhouses, pony ride strings, fairs and arenas at which the activity is held;

(5) "Equine professional", a person engaged for compensation, or an employee of such a person engaged:

(a) In instructing a participant or renting to a participant an equine for the purpose of riding, driving or being a passenger upon the equine; or

(b) In renting equipment or tack to a participant;

(6) "Inherent risks of equine **or livestock** activities", those dangers or conditions which are an integral part of equine **or livestock** activities, including but not limited to:

(a) The propensity of any equine **or livestock** to behave in ways that may result in injury, harm or death to persons on or around it;

(b) The unpredictability of any equine's **or livestock's** reaction to such things as sounds, sudden movement and unfamiliar objects, persons or other animals;

(c) Certain hazards such as surface and subsurface conditions;

(d) Collisions with other equines, **livestock**, or objects;

(e) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within his ability;

(7) "**Livestock**", the same as used in section 277.020;

(8) "**Livestock activity**":

(a) **Grazing, herding, feeding, branding, milking, or other activity that involves the care or maintenance of livestock;**

(b) **A livestock show, fair, competition, or auction;**

(c) **A livestock training or teaching activity;**

(d) **Boarding livestock; and**

(e) **Inspecting or evaluating livestock;**

(9) "**Livestock activity sponsor**", an individual, group, club, partnership, or corporation, whether or not operating for profit or nonprofit, legal entity, or any employee thereof, which sponsors, organizes, or provides the facilities for, a livestock activity;

(10) "**Livestock facility**", a property or facility at which a livestock activity is held;

(11) "**Livestock owner**", a person who owns livestock that is involved in livestock activity;

(12) "**Participant**", any person, whether amateur or professional, who engages in an equine activity **or a livestock activity**, whether or not a fee is paid to participate in the equine activity **or livestock activity**.

2. Except as provided in subsection 4 of this section, an equine activity sponsor, an equine professional, **a livestock activity sponsor, a livestock owner, a livestock facility, a livestock auction market, any employee thereof**, or any other person or corporation shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine **or livestock** activities and, except as provided in subsection 4 of this section, no participant or a participant's representative shall make any claim against, maintain an action against, or recover from an equine activity sponsor, an equine professional, **a livestock activity sponsor, a livestock owner, a livestock facility, a livestock auction market, any employee thereof**, or any other person from injury, loss, damage or death of the participant resulting from any of the inherent risks of equine **or livestock** activities.

3. This section shall not apply to the horse racing industry as regulated in sections 313.050 to 313.720. This section shall not apply to any employer-employee relationship governed by the provisions of, and for which liability is established pursuant to, chapter 287.

4. The provisions of subsection 2 of this section shall not prevent or limit the liability of an equine activity sponsor, an equine professional, **a livestock activity sponsor, a livestock owner, a livestock facility, a livestock auction market, any employee thereof**, or any other person if the equine activity sponsor, equine professional, **livestock activity sponsor, livestock owner, livestock facility, livestock auction market, any employee thereof**, or person:

(1) Provided the equipment or tack and knew or should have known that the equipment or tack was faulty and such equipment or tack was faulty to the extent that [it did cause] **the equipment or tack caused** the injury; or

(2) Provided the equine **or livestock** and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity **or livestock activity** and determine the ability of the participant to safely manage the particular equine **or livestock** based on the participant's age, obvious physical condition or the participant's representations of his **or her** ability;

(3) Owns, leases, rents or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known to the equine activity sponsor, equine professional, **livestock activity sponsor, livestock owner, livestock facility, livestock auction market, any employee thereof**, or person and for which warning signs have not been conspicuously posted;

(4) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant and that act or omission caused the injury;

(5) Intentionally injures the participant;

(6) Fails to use that degree of care that an ordinarily careful and prudent person would use under the same or similar circumstances.

5. The provisions of subsection 2 of this section shall not prevent or limit the liability of an equine activity sponsor [or], an equine professional, **a livestock activity sponsor, a livestock owner, a livestock facility, a livestock auction market, or any employee thereof** under liability provisions as set forth in any other section of law.

6. Every equine activity sponsor **and livestock activity sponsor** shall post and maintain signs which contain the warning notice specified in this subsection. Such signs shall be placed in a clearly visible location on or near stables, corrals or arenas where the [equine professional] **equine activity sponsor or livestock activity sponsor** conducts equine **or livestock** activities if such stables, corrals or arenas are owned, managed or controlled by the [equine professional] **equine activity sponsor or livestock activity sponsor**. The warning notice specified in this subsection shall appear on the sign in black letters on a white background with each letter to be a minimum of one inch in height. Every written contract entered into by an equine professional [and], **an equine activity sponsor, a livestock activity sponsor, a livestock owner, a livestock facility, a livestock auction market, or any employee thereof** for the providing of professional services, instruction or the rental of equipment [or], tack, or an equine to a participant, whether or not the contract involves equine **or livestock** activities on or off the location or site of the equine professional's [or], equine activity sponsor's, **or livestock activity sponsor's** business, shall contain in clearly readable print the warning notice specified in this subsection. The signs and contracts described in this subsection shall contain the following warning notice:

WARNING

Under Missouri law, an **equine activity sponsor, an equine professional, a livestock activity sponsor, a livestock owner, a livestock facility, a livestock auction market, or any employee thereof** is not liable for an injury to or the death of a participant in equine **or livestock** activities resulting from the inherent risks of equine **or livestock** activities pursuant to the Revised Statutes of Missouri.

Approved April 10, 2015

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SB 18 [SCS SB 18]

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

**Requires the Department of Revenue to notify sellers if there is a change in sales tax law interpretation**

AN ACT to repeal section 144.021, RSMo, and to enact in lieu thereof one new section relating to notice of sales tax modifications.

SECTION

A. Enacting clause.

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144.021. Imposition of tax — seller's duties — modification of taxable status of tangible personal property or services, notification of sellers, when, manner.

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

**SECTION A. ENACTING CLAUSE.** — Section 144.021, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.021, to read as follows:

**144.021. IMPOSITION OF TAX — SELLER'S DUTIES — MODIFICATION OF TAXABLE STATUS OF TANGIBLE PERSONAL PROPERTY OR SERVICES, NOTIFICATION OF SELLERS, WHEN, MANNER.** — **1.** The purpose and intent of sections 144.010 to 144.510 is to impose a tax upon the privilege of engaging in the business, in this state, of selling tangible personal property and those services listed in section 144.020 and for the privilege of titling new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or waters of this state which are required to be registered under the laws of the state of Missouri. Except as otherwise provided, the primary tax burden is placed upon the seller making the taxable sales of property or service and is levied at the rate provided for in section 144.020. Excluding subdivision (9) of subsection 1 of section 144.020 and sections 144.070, 144.440 and 144.450, the extent to which a seller is required to collect the tax from the purchaser of the taxable property or service is governed by section 144.285 and in no way affects sections 144.080 and 144.100, which require all sellers to report to the director of revenue their "gross receipts", defined herein to mean the aggregate amount of the sales price of all sales at retail, and remit tax at four percent of their gross receipts.

**2. If any item of tangible personal property or service determined to be taxable under the sales tax law or the compensating use tax law is modified by a decision or order of:**

- (1) The director of revenue;**
- (2) The administrative hearing commission; or**

**(3) A court of competent jurisdiction; which changes which items of tangible personal property or services are taxable, and a reasonable person would not have expected the decision or order based solely on prior law or regulation, all affected sellers shall be notified by the department of revenue before such modification shall take effect for such sellers. Failure of the department of revenue to notify a seller shall relieve such seller of liability for taxes that would be due under the modification until the seller is notified. The waiver of liability for taxes under this subsection shall only apply to sellers actively selling the type of tangible personal property or service affected by the decision on the date the decision or order is made or handed down and shall not apply to any seller that has previously remitted tax on the tangible personal property or taxable services subject to the decision or order or to any seller that had prior notice that the seller must collect and remit the tax.**

**3. The notification required by subsection 2 of this section shall be delivered by United States mail, electronic mail, or other secure electronic means of direct communications. The department of revenue shall update its website with information regarding modifications in sales tax law but such updates shall not constitute a notification required by subsection 2 of this section.**

Approved July 6, 2015

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SB 19 [SCS SB 19]

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

**Creates a new method of allocating corporate income between states for tax purposes**

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AN ACT to repeal section 143.451, RSMo, and to enact in lieu thereof one new section relating to allocation of corporate income.

SECTION

- A. Enacting clause.  
143.451. Taxable income to include all income within this state — definitions — intrastate business, report of income, when — deductions, how apportioned.

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

**SECTION A. ENACTING CLAUSE.** — Section 143.451, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.451, to read as follows:

**143.451. TAXABLE INCOME TO INCLUDE ALL INCOME WITHIN THIS STATE — DEFINITIONS — INTRASTATE BUSINESS, REPORT OF INCOME, WHEN — DEDUCTIONS, HOW APPORTIONED.** — 1. Missouri taxable income of a corporation shall include all income derived from sources within this state.

2. A corporation described in subdivision (1) of subsection 1 of section 143.441 shall include in its Missouri taxable income all income from sources within this state, including that from the transaction of business in this state and that from the transaction of business partly done in this state and partly done in another state or states. However:

(1) Where income results from a transaction partially in this state and partially in another state or states, and income and deductions of the portion in the state cannot be segregated, then such portions of income and deductions shall be allocated in this state and the other state or states as will distribute to this state a portion based upon the portion of the transaction in this state and the portion in such other state or states.

(2) The taxpayer may elect to compute the portion of income from all sources in this state in the following manner, or the manner set forth in subdivision (3) of this subsection:

(a) The income from all sources shall be determined as provided, excluding therefrom the figures for the operation of any bridge connecting this state with another state.

(b) The amount of sales which are transactions wholly in this state shall be added to one-half of the amount of sales which are transactions partly within this state and partly without this state, and the amount thus obtained shall be divided by the total sales or in cases where sales do not express the volume of business, the amount of business transacted wholly in this state shall be added to one-half of the amount of business transacted partly in this state and partly outside this state and the amount thus obtained shall be divided by the total amount of business transacted, and the net income shall be multiplied by the fraction thus obtained, to determine the proportion of income to be used to arrive at the amount of Missouri taxable income. The investment or reinvestment of its own funds, or sale of any such investment or reinvestment, shall not be considered as sales or other business transacted for the determination of said fraction.

(c) For the purposes of this subdivision, a transaction involving the sale of tangible property is:

a. "Wholly in this state" if both the seller's shipping point and the purchaser's destination point are in this state;

b. "Partly within this state and partly without this state" if the seller's shipping point is in this state and the purchaser's destination point is outside this state, or the seller's shipping point is outside this state and the purchaser's destination point is in this state;

c. Not "wholly in this state" or not "partly within this state and partly without this state" only if both the seller's shipping point and the purchaser's destination point are outside this state.

(d) For purposes of this subdivision:

a. The purchaser's destination point shall be determined without regard to the FOB point or other conditions of the sale; and

b. The seller's shipping point is determined without regard to the location of the seller's principle office or place of business.

(3) The taxpayer may elect to compute the portion of income from all sources in this state in the following manner:

(a) The income from all sources shall be determined as provided, excluding therefrom the figures for the operation of any bridge connecting this state with another state;

(b) The amount of sales which are transactions in this state shall be divided by the total sales, and the net income shall be multiplied by the fraction thus obtained, to determine the proportion of income to be used to arrive at the amount of Missouri taxable income. The investment or reinvestment of its own funds, or sale of any such investment or reinvestment, shall not be considered as sales or other business transacted for the determination of said fraction;

(c) For the purposes of this subdivision, a transaction involving the sale of tangible property is:

a. "In this state" if the purchaser's destination point is in this state;

b. Not "in this state" if the purchaser's destination point is outside this state;

(d) For purposes of this subdivision, the purchaser's destination point shall be determined without regard to the FOB point or other conditions of the sale and shall not be in this state if the purchaser received the tangible personal property from the seller in this state for delivery to the purchaser's location outside this state;

**(e) For the purposes of this subdivision, a transaction involving the sale other than the sale of tangible property is "in this state" if the taxpayer's market for the sales is in this state. The taxpayer's market for sales is in this state:**

**a. In the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this state;**

**b. In the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this state;**

**c. In the case of sale of a service, if and to the extent the ultimate beneficiary of the service is located in this state and shall not be in this state if the ultimate beneficiary of the service rendered by the taxpayer or the taxpayer's designee is located outside this state; and**

**d. In the case of intangible property:**

**(i) That is rented, leased, or licensed, if and to the extent the property is used in this state by the rentee, lessee, or licensee, provided that intangible property utilized in marketing a good or service to a consumer is "used in this state" if that good or service is purchased by a consumer who is in this state. Franchise fees or royalties received for the rent, lease, license, or use of a trade name, trademark, service mark, or franchise system or provides a right to conduct business activity in a specific geographic area are "used in this state" to the extent the franchise location is in this state; and**

**(ii) That is sold, if and to the extent the property is used in this state, provided that:**

**i. A contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is "used in this state" if the geographic area includes all or part of this state;**

**ii. Receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such intangible property under item (i) of this subparagraph; and**

**iii. All other receipts from a sales of intangible property shall be excluded from the numerator and denominator of the sales factor;**

**(f) If the state or states of assignment under paragraph (e) of this subdivision cannot be determined, the state or states of assignment shall be reasonably approximated;**

**(g) If the state of assignment cannot be determined under paragraph (e) of this subdivision or reasonably approximated under paragraph (f) of this subdivision, such sales shall be excluded from the denominator of the sales factor;**

**(h) The director may prescribe such rules and regulations as necessary or appropriate to carry out the purposes of this section.**

(4) For purposes of this subsection, the following words shall, unless the context otherwise requires, have the following meaning:

(a) "Administration services" include, but are not limited to, clerical, fund or shareholder accounting, participant record keeping, transfer agency, bookkeeping, data processing, custodial, internal auditing, legal and tax services performed for an investment company;

(b) "Affiliate", the meaning as set forth in 15 U.S.C. Section 80a-2(a)(3)(C), as may be amended from time to time;

(c) "Distribution services" include, but are not limited to, the services of advertising, servicing, marketing, underwriting or selling shares of an investment company, but, in the case of advertising, servicing or marketing shares, only where such service is performed by a person who is, or in the case of a closed end company, was, either engaged in the services of underwriting or selling investment company shares or affiliated with a person that is engaged in the service of underwriting or selling investment company shares. In the case of an open end company, such service of underwriting or selling shares must be performed pursuant to a contract entered into pursuant to 15 U.S.C. Section 80a-15(b), as from time to time amended;

(d) "Investment company", any person registered under the federal Investment Company Act of 1940, as amended from time to time, (the act) or a company which would be required to register as an investment company under the act except that such person is exempt to such registration pursuant to Section 80a-3(c)(1) of the act;

(e) "Investment funds service corporation" includes any corporation or S corporation doing business in the state which derives more than fifty percent of its gross income in the ordinary course of business from the provision directly or indirectly of management, distribution or administration services to or on behalf of an investment company or from trustees, sponsors and participants of employee benefit plans which have accounts in an investment company. An investment funds service corporation shall include any corporation or S corporation providing management services as an investment advisory firm registered under Section 203 of the Investment Advisors Act of 1940, as amended from time to time, regardless of the percentage of gross revenues consisting of fees from management services provided to or on behalf of an investment company;

(f) "Management services" include but are not limited to, the rendering of investment advice directly or indirectly to an investment company making determinations as to when sales and purchases of securities are to be made on behalf of the investment company, or the selling or purchasing of securities constituting assets of an investment company, and related activities, but only where such activity or activities are performed:

a. Pursuant to a contract with the investment company entered into pursuant to 15 U.S.C. Section 80a-15(a), as from time to time amended;

b. For a person that has entered into such contract with the investment company; or

c. For a person that is affiliated with a person that has entered into such contract with an investment company;

(g) "Qualifying sales", gross income derived from the provision directly or indirectly of management, distribution or administration services to or on behalf of an investment company or from trustees, sponsors and participants of employee benefit plans which have accounts in an investment company. For purposes of this section, "gross income" is defined as that amount of income earned from qualifying sources without deduction of expenses related to the generation of such income;

(h) "Residence", presumptively the fund shareholder's mailing address on the records of the investment company. If, however, the investment company or the investment funds service corporation has actual knowledge that the fund shareholder's primary residence or principal place of business is different than the fund shareholder's mailing address such presumption shall not control. To the extent an investment funds service corporation does not have access to the records of the investment company, the investment funds service corporation may employ reasonable methods to determine the investment company fund shareholder's residence.

(5) Notwithstanding other provisions of law to the contrary, qualifying sales of an investment funds service corporation, or S corporation, shall be considered wholly in this state only to the extent that the fund shareholders of the investment companies, to which the investment funds service corporation, or S corporation, provide services, are resided in this state. Wholly in this state qualifying sales of an investment funds service corporation, or S corporation, shall be determined as follows:

(a) By multiplying the investment funds service corporation's total dollar amount of qualifying sales from services provided to each investment company by a fraction, the numerator of which shall be the average of the number of shares owned by the investment company's fund shareholders resided in this state at the beginning of and at the end of the investment company's taxable year that ends with or within the investment funds service corporation's taxable year, and the denominator of which shall be the average of the number of shares owned by the investment company's fund shareholders everywhere at the beginning of and at the end of the investment company's taxable year that ends with or within the investment funds service corporation's taxable year;

(b) A separate computation shall be made to determine the wholly in this state qualifying sales from each investment company. The qualifying sales for each investment company shall be multiplied by the respective percentage of each fund, as calculated pursuant to paragraph (a) of this subdivision. The product of this equation shall result in the wholly in this state qualifying sales. The qualifying sales for each investment company which are not wholly in this state will be considered wholly without this state;

(c) To the extent an investment funds service corporation has sales which are not qualifying sales, those nonqualified sales shall be apportioned to this state based on the methodology utilized by the investment funds service corporation without regard to this subdivision.

3. Any corporation described in subdivision (1) of subsection 1 of section 143.441 organized in this state or granted a permit to operate in this state for the transportation or care of passengers shall report its gross earnings within the state on intrastate business and shall also report its gross earnings on all interstate business done in this state which report shall be subject to inquiry for the purpose of determining the amount of income to be included in Missouri taxable income. The previous sentence shall not apply to a railroad.

4. A corporation described in subdivision (2) of subsection 1 of section 143.441 shall include in its Missouri taxable income all income arising from all sources in this state and all income from each transportation service wholly within this state, from each service where the only lines of such corporation used are those in this state, and such proportion of revenue from each service where the facilities of such corporation in this state and in another state or states are used, as the mileage used over the lines of such corporation in the state shall bear to the total mileage used over the lines of such corporation. The taxpayer may elect to compute the portion of income from all sources within this state in the following manner:

(1) The income from all sources shall be determined as provided;

(2) The amount of investment of such corporation on December thirty-first of each year in this state in fixed transportation facilities, real estate and improvements, plus the value on December thirty-first of each year of any fixed transportation facilities, real estate and improvements in this state leased from any other railroad shall be divided by the sum of the total amount of investment of such corporation on December thirty-first of each year in fixed transportation facilities, real estate and improvements, plus the value on December thirty-first of each year, of any fixed transportation facilities, real estate and improvements leased from any other railroad. Where any fixed transportation facilities, real estate or improvements are leased by more than one railroad, such portion of the value shall be used by each railroad as the rental paid by each shall bear to the rental paid by all lessees. The income shall be multiplied by the fraction thus obtained to determine the proportion to be used to arrive at the amount of Missouri taxable income.

5. A corporation described in subdivision (3) of subsection 1 of section 143.441 shall include in its Missouri taxable income one-half of the net income from the operation of a bridge

between this and another state. If any such bridge is owned or operated by a railroad corporation or corporations, or by a corporation owning a railroad corporation using such bridge, then the figures for operation of such bridge may be included in the return of such railroad or railroads; or if such bridge is owned or operated by any other corporation which may now or hereafter be required to file an income tax return, one-half of the income or loss to such corporation from such bridge may be included in such return by adding or subtracting same to or from another net income or loss shown by the return.

6. A corporation described in subdivision (4) of subsection 1 of section 143.441 shall include in its Missouri taxable income all income arising from all sources within this state. Income shall include revenue from each telephonic or telegraphic service rendered wholly within this state; from each service rendered for which the only facilities of such corporation used are those in this state; and from each service rendered over the facilities of such corporation in this state and in other state or states, such proportion of such revenue as the mileage involved in this state shall bear to the total mileage involved over the lines of said company in all states. The taxpayer may elect to compute the portion of income from all sources within this state in the following manner:

(1) The income from all sources shall be determined as provided;

(2) The amount of investment of such corporation on December thirty-first of each year in this state in telephonic or telegraphic facilities, real estate and improvements thereon, shall be divided by the amount of the total investment of such corporation on December thirty-first of each year in telephonic or telegraphic facilities, real estate and improvements. The income of the taxpayer shall be multiplied by fraction thus obtained to determine the proportion to be used to arrive at the amount of Missouri taxable income.

7. From the income determined in subsections 2, 3, 4, 5 and 6 of this section to be from all sources within this state shall be deducted such of the deductions for expenses in determining Missouri taxable income as were incurred in this state to produce such income and all losses actually sustained in this state in the business of the corporation.

8. If a corporation derives only part of its income from sources within Missouri, its Missouri taxable income shall only reflect the effect of the following listed deductions to the extent applicable to Missouri. The deductions are: (a) its deduction for federal income taxes pursuant to section 143.171, and (b) the effect on Missouri taxable income of the deduction for net operating loss allowed by Section 172 of the Internal Revenue Code. The extent applicable to Missouri shall be determined by multiplying the amount that would otherwise affect Missouri taxable income by the ratio for the year of the Missouri taxable income of the corporation for the year divided by the Missouri taxable income for the year as though the corporation had derived all of its income from sources within Missouri. For the purpose of the preceding sentence, Missouri taxable income shall not reflect the listed deductions.

9. Any investment funds service corporation organized as a corporation or S corporation which has any shareholders resided in this state shall be subject to Missouri income tax as provided in this chapter.

**10. The provisions of this section do not impact any other apportionment election available to a taxpayer under Missouri statutes.**

Approved May 6, 2015

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SB 24 [CCS HCS SS#2 SCS SB 24]

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

**Modifies provisions of law relating to the Temporary Assistance for Needy Families Program and the Supplemental Nutrition Assistance Program**

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AN ACT to repeal section 208.040, RSMo, and to enact in lieu thereof four new sections relating to nonmedical public assistance.

SECTION

- A. Enacting clause.  
 208.026. Citation of law — work activities defined — TANF recipients required to engage in work activity — rulemaking authority.  
 208.040. Temporary assistance benefits — eligibility for — assignment of rights to support to state, when, effect of — authorized policies.  
 208.067. TANF set-aside minimums for certain programs.  
 208.244. Waiver of SNAP work requirements, inapplicable, when — savings used for child care assistance — annual report.

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

**SECTION A. ENACTING CLAUSE.** — Section 208.040, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 208.026, 208.040, 208.067, and 208.244, to read as follows:

**208.026. CITATION OF LAW — WORK ACTIVITIES DEFINED — TANF RECIPIENTS REQUIRED TO ENGAGE IN WORK ACTIVITY — RULEMAKING AUTHORITY.** — **1. Sections 208.026, 208.040, 208.067, and 208.244 shall be known and may be cited as the "Strengthening Missouri Families Act".**

**2. For the purposes of this section and sections 208.040 and 208.244, "work activities" shall have the same meaning as defined in 42 U.S.C. Section 607(d), including:**

- (1) Unsubsidized employment;**
- (2) Subsidized private sector employment;**
- (3) Subsidized public sector employment;**
- (4) Work experience, including work associated with refurbishing of publicly assisted housing, if sufficient private sector employment is not available;**
- (5) On-the-job training;**
- (6) Job search and job readiness assistance, which shall include utilization of the state employment database website. The department shall, in conjunction with the department of economic development, create a database tracking method in order to track temporary assistance for needy families benefits recipients' utilization of the employment database for the purpose of recording work activities, as well as include information on the state employment database website about the temporary assistance for needy families program's eligibility and work requirements, application process, and contact information;**
- (7) Community service programs;**
- (8) Vocational educational training, provided that such training does not exceed twelve months for any individual;**
- (9) Job skills training directly related to employment;**
- (10) Education directly related to employment for individuals who have not received a high school diploma or certificate of high school equivalency;**
- (11) Satisfactory attendance at a secondary school, provided that the individual has not already completed secondary school; and**
- (12) Provision of child care services to an individual who is participating in a community service program.**

**3. Beginning January 1, 2016, any parent or caretaker seeking assistance under the temporary assistance for needy families program shall engage in work activities before becoming eligible for benefits, unless such individual is otherwise exempt from the work requirement.**

**4. If after an investigation the department determines that a person is not cooperating with a work activity requirement under the temporary assistance for needy families**

program, a representative of the department shall meet face-to-face with the person to explain the potential sanction and the requirements to cure the sanction. After the meeting, the person shall have six weeks to comply with the work activity requirement, during which time no sanction of benefits shall occur. If the person does not comply with the work activity requirement within that six-week period, the department shall immediately apply a sanction terminating fifty percent of the amount of temporary assistance benefits to or for the person and the person's family for a maximum of ten weeks. During that period of sanctions, the person shall remain on the caseload in sanction status and a representative of the department shall attempt to meet face-to-face with the person to explain the existing sanction and the requirements to cure the sanction. To cure a sanction, the person shall perform work activities for at least a minimum average of thirty hours per week for one month, as described in 45 CFR 261.31(d). If the person does not cure the sanction, the case shall be closed.

5. To return to the temporary assistance for needy families benefits program after having been sanctioned off the caseload under subsection 4 of this section, the person shall complete work activities for a minimum average of thirty hours per week within one month of the temporary assistance eligibility interview.

6. This section does not prohibit the state from providing child care or any other related social or support services for a person who is eligible for financial assistance but to whom that assistance is not paid because of the person's failure to cooperate with the work activity.

7. In order to encourage the formation and maintenance of two-parent families, when a temporary assistance for needy families benefits recipient marries, the new spouse's income and assets shall be disregarded for six consecutive months. This disregard shall be a once-in-a-lifetime benefit for the recipient.

8. The department shall promulgate rules to implement this section including procedures to determine whether a person has cooperated with the requirements of the work activity and procedures for notification of a caretaker relative, second parent, or payee receiving the financial assistance on behalf of the person's family unit. 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, 2015, shall be invalid and void.

**208.040. TEMPORARY ASSISTANCE BENEFITS — ELIGIBILITY FOR — ASSIGNMENT OF RIGHTS TO SUPPORT TO STATE, WHEN, EFFECT OF — AUTHORIZED POLICIES. — 1.** Temporary assistance benefits shall be granted on behalf of a dependent child or children and may be granted to the parents or other needy eligible relative caring for a dependent child or children who:

(1) Is under the age of eighteen years; or is under the age of nineteen years and a full-time student in a secondary school (or at the equivalent level of vocational or technical training), if before the child attains the age of nineteen the child may reasonably be expected to complete the program of the secondary school (or vocational or technical training);

(2) Has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece, in a place of residence maintained by one or more of such relatives as the child's own home, and financial aid for such child is necessary to save the

child from neglect and to secure for the child proper care in such home. Physical or mental incapacity shall be certified to by competent medical or other appropriate authority designated by the family support division, and such certificate is hereby declared to be competent evidence in any proceedings concerning the eligibility of such claimant to receive temporary assistance benefits. Benefits may be granted and continued for this reason only while it is the judgment of the family support division that a physical or mental defect, illness or disability exists which prevents the parent from performing any gainful work;

(3) Is not receiving supplemental aid to the blind, blind pension, supplemental payments, or aid or public relief as an unemployable person;

(4) Is a resident of the state of Missouri.

2. The family support division shall require as additional conditions of eligibility for benefits that each applicant for or recipient of assistance:

(1) Shall furnish to the division the applicant's or recipient's Social Security number or numbers, if the applicant or recipient has more than one such number;

(2) Shall assign to the family support division in behalf of the state any rights to support from any other person such applicant may have in the applicant's own behalf or in behalf of any other person for whom the applicant is applying for or receiving assistance. An application for benefits made under this section shall constitute an assignment of support rights which shall take effect, by operation of law, upon a determination that the applicant is eligible for assistance under this section. The assignment shall comply with the requirements of 42 U.S.C. Section 608(a)(3) and authorizes the family support division of the department of social services to bring any administrative or judicial action to establish or enforce a current support obligation, to collect support arrearages accrued under an existing order for support, or to seek reimbursement of support provided by the division;

(3) Shall cooperate with the family support division unless the division determines in accordance with federally prescribed standards that such cooperation is contrary to the best interests of the child on whose behalf assistance is claimed or to the caretaker of such child, in establishing the paternity of a child born out of wedlock with respect to whom assistance is claimed, and in obtaining support payments for such applicant and for a child with respect to whom such assistance is claimed, or in obtaining any other payments or property due such applicant or such child. The family support division shall impose all penalties allowed pursuant to federal participation requirements;

(4) Shall cooperate with the department of social services in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the state's plan for medical assistance as provided in section 208.152, unless such individual has good cause for refusing to cooperate as determined by the department of social services in accordance with federally prescribed standards; and

(5) Shall participate in any program designed to reduce the recipient's dependence on welfare, if requested to do so by the department of social services.

3. The division shall require as a condition of eligibility for temporary assistance benefits that a minor child under the age of eighteen who has never married and who has a dependent child in his or her care, or who is pregnant and otherwise eligible for temporary assistance benefits, shall reside in a place of residence maintained by a parent, legal guardian, or other adult relative or in some other adult-supervised supportive living arrangement, as required by Section 403 of P.L. 100-485. Exceptions to the requirements of this subsection shall be allowed in accordance with requirements of the federal Family Support Act of 1988 in any of the following circumstances:

(1) The individual has no parent or legal guardian who is living or the whereabouts of the individual's parent or legal guardian is unknown; or

(2) The family support division determines that the physical health or safety of the individual or the child of the individual would be jeopardized; or

(3) The individual has lived apart from any parent or legal guardian for a period of at least one year prior to the birth of the child or applying for benefits; or

(4) The individual claims to be or to have been the victim of abuse while residing in the home where she would be required to reside and the case has been referred to the child abuse hotline and a "reason to suspect finding" has been made. Households where the individual resides with a parent, legal guardian or other adult relative or in some other adult-supervised supportive living arrangement shall, subject to federal waiver to retain full federal financial participation and appropriation, have earned income disregarded from eligibility determinations up to one hundred percent of the federal poverty level.

4. If the relative with whom a child is living is found to be ineligible because of refusal to cooperate as required in subdivision (3) of subsection 2 of this section, any assistance for which such child is eligible will be paid in the manner provided in subsection 2 of section 208.180, without regard to subsections 1 and 2 of this section.

5. The department of social services may implement policies designed to reduce a family's dependence on welfare. The department of social services is authorized to implement these policies by rule promulgated pursuant to section 660.017 and chapter 536, including the following:

(1) The department shall increase the earned income and resource disregards allowed recipients to help families achieve a gradual transition to self-sufficiency, including implementing policies to simplify employment-related eligibility standards by increasing the earned income disregard to two-thirds by October 1, 1999. The expanded earned income disregard shall apply only to recipients of cash assistance who obtain employment but not to new applicants for cash assistance who are already working. Once the individual has received the two-thirds disregard for twelve months, the individual would not be eligible for the two-thirds disregard until the individual has not received temporary assistance benefits for twelve consecutive months. The department shall promulgate rules pursuant to chapter 536 to implement the expanded earned income disregard provisions;

(2) The department shall permit a recipient's enrollment in educational programs beyond secondary education to qualify as a work activity for purposes of receipt of temporary assistance for needy families. Such education beyond secondary education shall qualify as a work activity if such recipient is attending and according to the standards of the institution and the family support division, making satisfactory progress towards completion of a postsecondary or vocational program. Weekly classroom time and allowable study time shall be applied toward the recipient's weekly work requirement. Such recipient shall be subject to the [sixty-month] **forty-five-month** lifetime limit for receipt of temporary assistance for needy families unless otherwise excluded by rule of the family support division;

(3) Beginning January 1, 2002, and every two years thereafter, the department of social services shall make a detailed report and a presentation on the temporary assistance for needy families program to the house appropriations for social services committee and the house social services, Medicaid and the elderly committee, and the senate aging, families and mental health committee, or comparable committees;

(4) Other policies designed to reduce a family's dependence on welfare may include supplementing wages for recipients for the lesser of forty-eight months or the length of the recipient's employment by diverting the temporary assistance grant;

**(5) Beginning January 1, 2016, the lifetime limit for temporary assistance for needy families shall be forty-five months. The lifetime limit shall not apply to the exceptions set forth in 42 U.S.C. Section 608(a)(7), including but not limited to:**

**(a) Any assistance provided with respect to and during the time in which the individual was a minor child, provided that the minor child was not the head of a household or married to the head of a household; and**

**(b) Any family to which the state has granted an exemption for reasons of hardship or if the family includes an individual who has been battered or subjected to extreme**

cruelty, provided that the average monthly number of such families in a fiscal year shall not exceed twenty percent of the average monthly number of families to which temporary assistance for needy families is provided during the fiscal year or the immediately preceding fiscal year.

The provisions of this subdivision shall not apply to persons obtaining assistance under subdivision (6) of this subsection;

(6) Beginning January 1, 2016, the department shall implement a cash diversion program that grants eligible temporary assistance for needy families benefits recipients lump-sum cash grants for short-term needs, as well as job referrals or referrals to career centers, in lieu of signing up for the long-term monthly cash assistance program upon a showing of good cause as determined by the department. Such lump-sum grants shall be available for use once in a twelve-month period and only five instances in a lifetime. Good cause may include loss of employment, excluding voluntarily quitting or a dismissal due to poor job performance or failure to meet a condition of employment; catastrophic illness or accident of a family member that requires an employed recipient to leave employment; a domestic violence incident; or another situation or emergency that renders an employed family member unable to care for the basic needs of the family. The department shall promulgate rules determining the parameters for the diversion program, including good cause determinations, and shall set the lump-sum maximum limit at three times the family size allowance and for use once in a twelve-month period and only five instances in a lifetime; and

(7) The department shall develop a standardized program orientation for temporary assistance for needy families benefits applicants that informs applicants of the program's rules and requirements, available resources for work activities, and consequences if the program's requirements are not satisfied. Following the orientation, applicants shall sign a participation agreement in which applicants commit to participate in the program and specify the work activities in which they will participate. This participation agreement shall be known as a personal responsibility plan. The department shall not issue a case without confirmation that an applicant has undergone the orientation and signed a personal responsibility plan, unless the individual is otherwise exempt from the work activity requirements.

The provisions of this subsection shall be subject to compliance by the department with all applicable federal laws and rules regarding temporary assistance for needy families.

6. The work history requirements and definition of unemployed shall not apply to any parents in order for these parents to be eligible for assistance pursuant to section 208.041.

7. The department shall continue to apply uniform standards of eligibility and benefits, excepting pilot projects, in all political subdivisions of the state.

8. Consistent with federal law, the department shall establish income and resource eligibility requirements that are no more restrictive than its July 16, 1996, income and resource eligibility requirements in determining eligibility for temporary assistance benefits.

**208.067. TANF SET-ASIDE MINIMUMS FOR CERTAIN PROGRAMS. — 1. Of the moneys received by the state under the federal temporary assistance for needy families block grant during each fiscal year, the department of social services shall, consistent with federal law and subject to appropriation, set aside a minimum of:**

(1) Two percent of such moneys to fund the alternatives to abortion services program under section 188.325 and the alternatives to abortion public awareness program under section 188.335. The department shall give preference to contracting with not-for-profit entities that promote one or more of the four purposes established by Congress under 42 U.S.C. Section 601 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; and

(2) Two percent of such moneys to fund healthy marriage promotion activities and activities promoting responsible fatherhood, as defined in 42 U.S.C. Section 603 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The department shall give preference to contracting with not-for-profit entities that promote one or more of the four purposes established by Congress under 42 U.S.C. Section 601 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

2. It is the intent of the general assembly that funding authorized under this section shall be used to supplement, not supplant, other sources of revenue heretofore or hereafter used for the purposes of this section.

**208.244. WAIVER OF SNAP WORK REQUIREMENTS, INAPPLICABLE, WHEN — SAVINGS USED FOR CHILD CARE ASSISTANCE — ANNUAL REPORT. — 1. Beginning January 1, 2016, the waiver of the work requirement for the supplemental nutrition assistance program under 7 U.S.C. Section 2015(o) shall no longer apply to individuals seeking benefits in this state. The provisions of this subsection shall terminate on January 1, 2019.**

2. Any ongoing savings resulting from a reduction in state expenditures due to modification of the supplemental nutrition assistance program under this section or the temporary assistance for needy families program under sections 208.026 and 208.040 effective on August 28, 2015, subject to appropriations, shall be used to provide child care assistance for single parent households, education assistance, transportation assistance, and job training for individuals receiving benefits under such programs as allowable under applicable state and federal law.

3. The department shall make an annual report to the joint committee on government accountability on the progress of implementation of sections 208.026 and 208.040, including information on enrollment, demographics, work participation, and changes to specific policies. The joint committee shall meet at least once a year to review the department's report and shall make recommendations to the president pro tempore of the senate and the speaker of the house of representatives.

Vetoed April 30, 2015

Overridden May 5, 2015

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SB 34 [HCS SCS SBs 34 & 105]

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

**Extends voter registration requirements**

AN ACT to repeal sections 115.135, 115.275, 115.277, 115.279, 115.283, 115.287, 115.291, 115.912, and 115.940, RSMo, and to enact in lieu thereof eight new sections relating to military and overseas voter registration, with an emergency clause.

SECTION

- A. Enacting clause.
  - 115.135. Persons entitled to register, when — identification required — military service, registration, when.
  - 115.275. Definitions relative to absentee ballots.
  - 115.277. Persons eligible to vote absentee.
  - 115.279. Application for absentee ballot, how made.
  - 115.283. Statements of absentee voters or persons providing assistance to absentee voters — forms — notary seal not required, when — charges by notaries, limitations.
  - 115.287. Absentee ballot, how delivered.
  - 115.291. Procedure for absentee ballots — declared emergencies, delivery and return of ballots — envelopes, refusal to accept ballot prohibited when.
  - 115.912. Timeliness of application, when.
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- 115.940. Persons in federal service, permitted to vote in same manner under uniformed military and overseas voters act.
- B. Emergency clause.

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

**SECTION A. ENACTING CLAUSE.** — Sections 115.135, 115.275, 115.277, 115.279, 115.283, 115.287, 115.291, 115.912, and 115.940, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 115.135, 115.275, 115.277, 115.279, 115.283, 115.287, 115.291, and 115.912, to read as follows:

**115.135. PERSONS ENTITLED TO REGISTER, WHEN — IDENTIFICATION REQUIRED — MILITARY SERVICE, REGISTRATION, WHEN.** — 1. Any person who is qualified to vote, or who shall become qualified to vote on or before the day of election, shall be entitled to register in the jurisdiction within which he or she resides. In order to vote in any election for which registration is required, a person must be registered to vote in the jurisdiction of his or her residence no later than 5:00 p.m., or the normal closing time of any public building where the registration is being held if such time is later than 5:00 p.m., on the fourth Wednesday prior to the election, unless the voter is an interstate former resident, an intrastate new resident [or], a new resident, **or a covered voter**, as defined in section 115.275. **Except as provided in subsection 4 of this section**, in no case shall registration for an election extend beyond 10:00 p.m. on the fourth Wednesday prior to the election. Any person registering after such date shall be eligible to vote in subsequent elections.

2. A person applying to register with an election authority or a deputy registration official shall identify himself or herself by presenting a copy of a birth certificate, a Native American tribal document, other proof of United States citizenship, a valid Missouri drivers license or other form of personal identification at the time of registration.

3. Except as provided in federal law or federal elections and in section 115.277, no person shall be entitled to vote if the person has not registered to vote in the jurisdiction of his or her residence prior to the deadline to register to vote.

4. **A covered voter as defined in section 115.275 who has been discharged from military service, has returned from a military deployment or activation, or has separated from employment outside the territorial limits of the United States after the deadline to register to vote, and who is otherwise qualified to register to vote, may register to vote in an election in person before the election authority until 5:00 p.m. on the Friday before such election. Such persons shall produce sufficient documentation showing evidence of qualifying for late registration pursuant to this section.**

**115.275. DEFINITIONS RELATIVE TO ABSENTEE BALLOTS.** — As used in sections 115.275 to 115.304, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Absentee ballot", any of the ballots a person is authorized to cast away from a polling place pursuant to the provisions of sections 115.275 to 115.304;

(2) "Covered voter":

(a) A uniformed services voter who is registered to vote in this state;

(b) A uniformed services voter defined in this section whose voting residence is in this state and who otherwise satisfies this state's voter eligibility requirements;

(c) An overseas voter;

(d) Civilian employees of the United States government working outside the boundaries of the United States, and their spouses and dependents;

(e) Active members of religious or welfare organizations assisting servicemen, and their spouses and dependents; or

(f) Persons who have been honorably discharged from the Armed Forces or who have terminated their service or employment in any group mentioned in this section within sixty days of an election, and their spouses and dependents;

(3) "Interstate former resident", a former resident and registered voter in this state who moves from Missouri to another state after the deadline to register to vote in any presidential election in the new state and who otherwise possesses the qualifications to register and vote in such state;

[~~(3)~~ (4) "Intrastate new resident", a registered voter of this state who moves from one election authority's jurisdiction in the state to another election authority's jurisdiction in the state after the last day authorized in this chapter to register to vote in an election and otherwise possesses the qualifications to vote;

[~~(4)~~ (5) "New resident", a person who moves to this state after the last date authorized in this chapter to register to vote in any presidential election;

(5) "Persons in federal service" includes:

(a) Members of the Armed Forces of the United States, while in active service, and their spouses and dependents;

(b) Active members of the Merchant Marine of the United States and their spouses and dependents;

(c) Civilian employees of the United States government working outside the boundaries of the United States, and their spouses and dependents;

(d) Active members of religious or welfare organizations assisting servicemen, and their spouses and dependents; **or**

(e) Persons who have been honorably discharged from the Armed Forces or who have terminated their service or employment in any group mentioned in this section within sixty days of an election, and their spouses and dependents.]

(6) "Overseas voter":

(a) **A person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or**

(b) **A person who resides outside the United States and, but for such residence, would be qualified to vote in the last place in which the person was domiciled before leaving the United States;**

(7) "Uniformed services":

(a) **Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;**

(b) **The Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or**

(c) **The Missouri National Guard;**

(8) "Uniformed services voter", an individual who is qualified to vote and is:

(a) **A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;**

(b) **A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;**

(c) **A member on activated status of the National Guard; or**

(d) **A spouse or dependent of a member referred to in this subdivision;**

(9) "United States", used in the territorial sense, the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

**115.277. PERSONS ELIGIBLE TO VOTE ABSENTEE.** — 1. Except as provided in subsections 2, 3, 4, and 5 of this section, any registered voter of this state may vote by absentee ballot for all candidates and issues for which such voter would be eligible to vote at the polling place if such voter expects to be prevented from going to the polls to vote on election day due to:

(1) Absence on election day from the jurisdiction of the election authority in which such voter is registered to vote;

(2) Incapacity or confinement due to illness or physical disability, including a person who is primarily responsible for the physical care of a person who is incapacitated or confined due to illness or disability;

(3) Religious belief or practice;

(4) Employment as an election authority, as a member of an election authority, or by an election authority at a location other than such voter's polling place;

(5) Incarceration, provided all qualifications for voting are retained;

**(6) Certified participation in the address confidentiality program established under sections 589.660 to 589.681 because of safety concerns.**

2. Any [person in federal service] **covered voter**, as defined in section 115.275, who is eligible to register and vote in this state [but is not registered may vote only in the election of presidential and vice presidential electors, United States senator and representative in Congress] **may vote in any election for federal office, statewide office, state legislative office, or statewide ballot initiatives by submitting a federal postcard application to apply to vote by absentee ballot or by submitting a federal postcard application at the polling place** even though the person is not registered. **A federal postcard application submitted by a covered voter pursuant to this subsection shall also serve as a voter registration application under section 115.908 and the election authority shall, if satisfied that the applicant is entitled to register, place the voter's name on the voter registration file.** Each [person in federal service] **covered voter** may vote by absentee ballot or, upon submitting an affidavit that the person is qualified to vote in the election, may vote at the person's polling place.

3. Any interstate former resident, as defined in section 115.275, may vote by absentee ballot for presidential and vice presidential electors.

4. Any intrastate new resident, as defined in section 115.275, may vote by absentee ballot at the election for presidential and vice presidential electors, United States senator, representative in Congress, statewide elected officials and statewide questions, propositions and amendments from such resident's new jurisdiction of residence after registering to vote in such resident's new jurisdiction of residence.

5. Any new resident, as defined in section 115.275, may vote by absentee ballot for presidential and vice presidential electors after registering to vote in such resident's new jurisdiction of residence.

**115.279. APPLICATION FOR ABSENTEE BALLOT, HOW MADE.** — 1. Application for an absentee ballot may be made by the applicant in person, or by mail, or for the applicant, in person, by his or her guardian or a relative within the second degree by consanguinity or affinity. The election authority shall accept applications by facsimile transmission within the limits of its telecommunications capacity.

2. Each application shall be made to the election authority of the jurisdiction in which the person is or would be registered. Each application shall be in writing and shall state the applicant's name, address at which he or she is or would be registered, his or her reason for voting an absentee ballot, the address to which the ballot is to be mailed, if mailing is requested, and for absent uniformed services and overseas applicants, the applicant's email address if electronic transmission is requested. **If the reason for the applicant voting absentee is due to the reasons established under subdivision (6) of subsection 1 of section 115.277, the applicant shall state the voter's identification information provided by the address confidentiality program in lieu of the applicant's name, address at which he or she is or would be registered, and address to which the ballot is to be mailed, if mailing is requested.** Each application to vote in a primary election shall also state which ballot the applicant wishes to receive. If any application fails to designate a ballot, the election authority shall, within three working days after receiving the application, notify the applicant by mail that it will be unable to deliver an absentee ballot until the applicant designates which political party ballot he or she wishes to receive. If the applicant does not respond to the request for political

party designation, the election authority is authorized to provide the voter with that part of the ballot for which no political party designation is required.

3. Except as provided in subsection 3 of section 115.281, all applications for absentee ballots received prior to the sixth Tuesday before an election shall be stored at the office of the election authority until such time as the applications are processed in accordance with section 115.281. No application for an absentee ballot received in the office of the election authority by mail, by facsimile transmission or by a guardian or relative after 5:00 p.m. on the Wednesday immediately prior to the election shall be accepted by any election authority. No application for an absentee ballot submitted by the applicant in person after 5:00 p.m. on the day before the election shall be accepted by any election authority, except as provided in subsections 6, 8 and 9 of this section.

4. Each application for an absentee ballot shall be signed by the applicant or, if the application is made by a guardian or relative pursuant to this section, the application shall be signed by the guardian or relative, who shall note on the application his or her relationship to the applicant. If an applicant, guardian or relative is blind, unable to read or write the English language or physically incapable of signing the application, he or she shall sign by mark, witnessed by the signature of an election official or person of his or her own choosing. Any person who knowingly makes, delivers or mails a fraudulent absentee ballot application shall be guilty of a class one election offense.

5. (1) Notwithstanding any law to the contrary, any resident of the state of Missouri who resides outside the boundaries of the United States or who is on active duty with the Armed Forces of the United States or members of their immediate family living with them may request an absentee ballot for both the primary and subsequent general election with one application.

(2) The election authority shall provide each absent uniformed services voter and each overseas voter who submits a voter registration application or an absentee ballot request, if the election authority rejects the application or request, with the reasons for the rejection.

(3) Notwithstanding any other law to the contrary, if a standard oath regarding material misstatements of fact is adopted for uniformed and overseas voters pursuant to the Help America Vote Act of 2002, the election authority shall accept such oath for voter registration, absentee ballot, or other election-related materials.

(4) Not later than sixty days after the date of each regularly scheduled general election for federal office, each election authority which administered the election shall submit to the secretary of state in a format prescribed by the secretary a report on the combined number of absentee ballots transmitted to, and returned by, absent uniformed services voters and overseas voters for the election. The secretary shall submit to the Election Assistance Commission a combined report of such information not later than ninety days after the date of each regularly scheduled general election for federal office and in a standardized format developed by the commission pursuant to the Help America Vote Act of 2002. The secretary shall make the report available to the general public.

(5) As used in this section, the terms "absent uniformed services voter" and "overseas voter" shall have the meaning prescribed in 42 U.S.C. **Section** 1973ff-6.

6. An application for an absentee ballot by a new resident, as defined in section 115.275, shall be submitted in person by the applicant in the office of the election authority in the election jurisdiction in which such applicant resides. The application shall be received by the election authority no later than 7:00 p.m. on the day of the election. Such application shall be in the form of an affidavit, executed in duplicate in the presence of the election authority or any authorized officer of the election authority, and in substantially the following form:

"STATE OF .....

COUNTY OF ....., ss.

I,....., do solemnly swear that:

(1) Before becoming a resident of this state, I resided at .....  
(residence address) in ..... (town, township, village or city) of .....  
County in the state of .....

(2) I moved to this state after the last day to register to vote in such general presidential election and I am now residing in the county of ....., state of Missouri;

(3) I believe I am entitled pursuant to the laws of this state to vote in the presidential election to be held November ....., ..... (year);

(4) I hereby make application for a presidential and vice presidential ballot. I have not voted and shall not vote other than by this ballot at such election.

Signed .....

(Applicant)

.....  
(Residence Address)

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

Signed .....

(Title and name of officer authorized to administer oaths)"

7. The election authority in whose office an application is filed pursuant to subsection 6 of this section shall immediately send a duplicate of such application to the appropriate official of the state in which the new resident applicant last resided and shall file the original of such application in its office.

8. An application for an absentee ballot by an intrastate new resident, as defined in section 115.275, shall be made in person by the applicant in the office of the election authority in the election jurisdiction in which such applicant resides. The application shall be received by the election authority no later than 7:00 p.m. on the day of the election. Such application shall be in the form of an affidavit, executed in duplicate in the presence of the election authority or an authorized officer of the election authority, and in substantially the following form:

"STATE OF .....

COUNTY OF ....., ss.

I, ....., do solemnly swear that:

(1) Before becoming a resident of this election jurisdiction, I resided at .....  
(residence address) in ..... (town, township, village or city) of .....  
..... county in the state of .....

(2) I moved to this election jurisdiction after the last day to register to vote in such election;

(3) I believe I am entitled pursuant to the laws of this state to vote in the election to be held ..... (date);

(4) I hereby make application for an absentee ballot for candidates and issues on which I am entitled to vote pursuant to the laws of this state. I have not voted and shall not vote other than by this ballot at such election.

Signed .....

(Applicant)

.....  
(Residence Address)

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

Signed .....

(Title and name of officer authorized to administer oaths)"

9. An application for an absentee ballot by an interstate former resident, as defined in section 115.275, shall be received in the office of the election authority where the applicant was formerly registered by 5:00 p.m. on the Wednesday immediately prior to the election, unless the application is made in person by the applicant in the office of the election authority, in which case such application shall be made no later than 7:00 p.m. on the day of the election.

**115.283. STATEMENTS OF ABSENTEE VOTERS OR PERSONS PROVIDING ASSISTANCE TO ABSENTEE VOTERS — FORMS — NOTARY SEAL NOT REQUIRED, WHEN — CHARGES BY NOTARIES, LIMITATIONS.** — 1. Each ballot envelope shall bear a statement on which the voter shall state the voter's name, the voter's voting address, the voter's mailing address and the voter's reason for voting an absentee ballot. **If the reason for the voter voting absentee is due to the reasons established under subdivision (6) of subsection 1 of section 115.277, the voter shall state the voter's identification information provided by the address confidentiality program in lieu of the applicant's name, voting address, and mailing address.** On the form, the voter shall also state under penalties of perjury that the voter is qualified to vote in the election, that the voter has not previously voted and will not vote again in the election, that the voter has personally marked the voter's ballot in secret or supervised the marking of the voter's ballot if the voter is unable to mark it, that the ballot has been placed in the ballot envelope and sealed by the voter or under the voter's supervision if the voter is unable to seal it, and that all information contained in the statement is true. In addition, any person providing assistance to the absentee voter shall include a statement on the envelope identifying the person providing assistance under penalties of perjury. Persons authorized to vote only for federal and statewide officers shall also state their former Missouri residence.

2. The statement for persons voting absentee ballots who are registered voters shall be in substantially the following form:

State of Missouri  
 County (City) of .....

I, ..... (print name), a registered voter of ..... County (City of St. Louis, Kansas City), declare under the penalties of perjury that I expect to be prevented from going to the polls on election day due to (check one):

- ..... absence on election day from the jurisdiction of the election authority in which I am registered;
- ..... incapacity or confinement due to illness or physical disability, including caring for a person who is incapacitated or confined due to illness or disability
- ..... religious belief or practice;
- ..... employment as an election authority or by an election authority at a location other than my polling place;
- ..... incarceration, although I have retained all the necessary qualifications for voting;
- ..... **certified participation in the address confidentiality program established under sections 589.660 to 589.681 because of safety concerns.**

I hereby state under penalties of perjury that I am qualified to vote at this election; I have not voted and will not vote other than by this ballot at this election. I further state that I marked the enclosed ballot in secret or that I am blind, unable to read or write English, or physically incapable of marking the ballot, and the person of my choosing indicated below marked the ballot at my direction; all of the information on this statement is, to the best of my knowledge and belief, true.

|                             |  |
|-----------------------------|--|
| .....<br>Signature of Voter | .....<br>Signature of Person<br>Assisting Voter<br>(if applicable) |
| Signed .....                | Subscribed and sworn to  |
| Signed .....                | before me this ..... day   |
| Address of Voter            | of ....., .....  |
| .....                       | .....  |
| .....                       | .....  |

Mailing addresses  
(if different)

Signature of notary or  
other officer authorized  
to administer oaths

3. The statement for persons voting absentee ballots pursuant to the provisions of subsection 2, 3, 4, or 5 of section 115.277 without being registered shall be in substantially the following form:

State of Missouri

County (City) of .....

I, ..... (print name), declare under the penalties of perjury that I am a citizen of the United States and eighteen years of age or older. I am not adjudged incapacitated by any court of law, and if I have been convicted of a felony or of a misdemeanor connected with the right of suffrage, I have had the voting disabilities resulting from such conviction removed pursuant to law. I hereby state under penalties of perjury that I am qualified to vote at this election.

I am (check one):

..... a resident of the state of Missouri and a registered voter in ..... County and moved from that county to ..... County, Missouri, after the last day to register to vote in this election.

..... an interstate former resident of Missouri and authorized to vote for presidential and vice presidential electors.

I further state under penalties of perjury that I have not voted and will not vote other than by this ballot at this election; I marked the enclosed ballot in secret or am blind, unable to read or write English, or physically incapable of marking the ballot, and the person of my choosing indicated below marked the ballot at my direction; all of the information on this statement is, to the best of my knowledge and belief, true.

.....  
Signature of Voter                      Subscribed to and sworn  
before me this ..... day  
of ....., .....

.....  
Address of Voter                      Signature of notary or  
other officer authorized  
to administer oaths

.....  
Mailing Address (if different)      .....

.....  
Signature of Person                  Address of Last  
Assisting Voter                      Missouri Residence  
(if applicable)

4. The statement for persons voting absentee ballots who are entitled to vote at the election pursuant to the provisions of subsection 2 of section 115.137 shall be in substantially the following form:

State of Missouri

County (City) of .....

I, ..... (print name), declare under the penalties of perjury that I expect to be prevented from going to the polls on election day due to (check one):

..... absence on election day from the jurisdiction of the election authority in which I am directed to vote;

..... incapacity or confinement due to illness or physical disability, including caring for a person who is incapacitated or confined due to illness or disability;



9. A notary public who charges more than the maximum fee specified or who charges or collects a fee for notarizing the signature on any absentee ballot or absentee voter registration is guilty of official misconduct.

**115.287. ABSENTEE BALLOT, HOW DELIVERED.** — 1. Upon receipt of a signed application for an absentee ballot and if satisfied the applicant is entitled to vote by absentee ballot, the election authority shall, within three working days after receiving the application, or if absentee ballots are not available at the time the application is received, within five working days after they become available, deliver to the voter an absentee ballot, ballot envelope and such instructions as are necessary for the applicant to vote. Delivery shall be made to the voter personally in the office of the election authority or by bipartisan teams appointed by the election authority, or by first class, registered, or certified mail at the discretion of the election authority, or in the case of a covered voter as defined in section 115.902, the method of transmission prescribed in section 115.914. Where the election authority is a county clerk, the members of bipartisan teams representing the political party other than that of county clerk shall be selected from a list of persons submitted to the county clerk by the county chairman of that party. If no list is provided by the time that absentee ballots are to be made available, the county clerk may select a person or persons from lists provided in accordance with section 115.087. If the election authority is not satisfied that any applicant is entitled to vote by absentee ballot, it shall not deliver an absentee ballot to the applicant. Within three working days of receiving such an application, the election authority shall notify the applicant and state the reason he or she is not entitled to vote by absentee ballot. The applicant may appeal the decision of the election authority to the circuit court in the manner provided in section 115.223.

2. If, after 5:00 p.m. on the Wednesday before an election, any voter from the jurisdiction has become hospitalized, becomes confined due to illness or injury, or is confined in an adult boarding facility, intermediate care facility, residential care facility, or skilled nursing facility, as defined in section 198.006, in the county in which the jurisdiction is located or in the jurisdiction or an adjacent election authority within the same county, the election authority shall appoint a team to deliver, witness the signing of and return the voter's application and deliver, witness the voting of and return the voter's absentee ballot. In counties with a charter form of government and in cities not within a county, and in each city which has over three hundred thousand inhabitants, and is situated in more than one county, if the election authority receives ten or more applications for absentee ballots from the same address it may appoint a team to deliver and witness the voting and return of absentee ballots by voters residing at that address, except when such addresses are for an apartment building or other structure wherein individual living units are located, each of which has its own separate cooking facilities. Each team appointed pursuant to this subsection shall consist of two registered voters, one from each major political party. Both members of any team appointed pursuant to this subsection shall be present during the delivery, signing or voting and return of any application or absentee ballot signed or voted pursuant to this subsection.

3. On the mailing and ballot envelopes for each [applicant in federal service] **covered voter**, the election authority shall stamp prominently in black the words "FEDERAL BALLOT, STATE OF MISSOURI" and "U.S. Postage Paid, 39 U.S.C. 3406".

4. No information which encourages a vote for or against a candidate or issue shall be provided to any voter with an absentee ballot.

**115.291. PROCEDURE FOR ABSENTEE BALLOTS — DECLARED EMERGENCIES, DELIVERY AND RETURN OF BALLOTS — ENVELOPES, REFUSAL TO ACCEPT BALLOT PROHIBITED WHEN.** — 1. Upon receiving an absentee ballot in person or by mail, the voter shall mark the ballot in secret, place the ballot in the ballot envelope, seal the envelope and fill out the statement on the ballot envelope. The affidavit of each person voting an absentee ballot shall be

subscribed and sworn to before the election official receiving the ballot, a notary public or other officer authorized by law to administer oaths, unless the voter is voting absentee due to incapacity or confinement due to the provisions of section 115.284 illness or physical disability, or the voter is a covered voter as defined in section 115.902. If the voter is blind, unable to read or write the English language, or physically incapable of voting the ballot, the voter may be assisted by a person of the voter's own choosing. Any person assisting a voter who is not entitled to such assistance, and any person who assists a voter and in any manner coerces or initiates a request or a suggestion that the voter vote for or against or refrain from voting on any question, ticket or candidate, shall be guilty of a class one election offense. If, upon counting, challenge or election contest, it is ascertained that any absentee ballot was voted with unlawful assistance, the ballot shall be rejected.

2. Except as provided in subsection 4 of this section, each absentee ballot shall be returned to the election authority in the ballot envelope and shall only be returned by the voter in person, or in person by a relative of the voter who is within the second degree of consanguinity or affinity, by mail or registered carrier or by a team of deputy election authorities; except that [persons in federal service] **covered voters**, when sent from a location determined by the secretary of state to be inaccessible on election day, shall be allowed to return their absentee ballots cast by use of facsimile transmission or under a program approved by the Department of Defense for electronic transmission of election materials.

3. In cases of an emergency declared by the President of the United States or the governor of this state where the conduct of an election may be affected, the secretary of state may provide for the delivery and return of absentee ballots by use of a facsimile transmission device or system. Any rule promulgated pursuant to this subsection shall apply to a class or classes of voters as provided for by the secretary of state.

4. No election authority shall refuse to accept and process any otherwise valid marked absentee ballot submitted in any manner by a covered voter solely on the basis of restrictions on envelope type.

**115.912. TIMELINESS OF APPLICATION, WHEN.** — An application for a military-overseas ballot is timely if received by 5:00 p.m. on the [Wednesday] **Friday** prior to the election. An application for a military-overseas ballot for a primary election, whether or not timely, shall be effective as an application for a military-overseas ballot for the general election.

**[115.940. PERSONS IN FEDERAL SERVICE, PERMITTED TO VOTE IN SAME MANNER UNDER UNIFORMED MILITARY AND OVERSEAS VOTERS ACT.** — Notwithstanding any other provision of law, a person in the federal service as defined under section 115.275 may vote in the same manner, using the same technology and requirements, as an overseas voter under sections 115.900 to 115.936.]

**SECTION B. EMERGENCY CLAUSE.** — Because immediate action is necessary to allow the provisions of this act to apply to election procedures before August 28, 2015, in order to protect the security needs of victims of domestic violence, rape, sexual assault, or stalking, the repeal and reenactment of sections 115.277, 115.279, and 115.283 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 115.277, 115.279, and 115.283 of this act shall be in full force and effect on July 1, 2015, or upon its passage and approval, whichever first occurs.

Approved June 25, 2015

## SB 58 [SS SB 58]

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

**Modifies and repeals a number of existing, expired or obsolete committees**

AN ACT to repeal sections 8.597, 21.440, 21.445, 21.450, 21.455, 21.460, 21.465, 21.530, 21.535, 21.537, 21.830, 21.835, 21.850, 21.920, 30.953, 30.954, 30.956, 30.959, 30.962, 30.965, 30.968, 30.971, 33.150, 33.710, 33.850, 37.250, 43.518, 99.863, 99.971, 99.1057, 160.530, 167.195, 191.828, 191.934, 192.632, 215.261, 215.262, 217.550, 217.567, 313.001, 320.092, 338.321, 348.439, 361.120, and 630.010, RSMo, and section 105.955 as enacted by senate bill no. 844, ninety-fifth general assembly, second regular session, and to enact in lieu thereof eleven new sections relating to the existence of certain committees.

## SECTION

- A. Enacting clause.
- 33.150. Preserve all accounts and vouchers — destroy, when.
- 33.710. Committee, composition — expenses — officers.
- 43.518. Criminal records and justice information advisory committee, established — purpose — members — meetings, quorum — minutes, distribution, filing of.
- 160.530. Eligibility for state aid, allocation of funds to professional development committee — statewide areas of critical need, funds — success leads to success grant program created, purpose — listing of expenditures.
- 191.828. Evaluations, effect of initiatives.
- 217.550. Prison industries and services program created — director to administer — approval required — report submitted to director, contents.
- 217.567. Director may contract with private entities for employment of inmates — leasing of correctional facility property — wages, director to set policies.
- 320.092. Creates annual reporting requirements for certain tax credits.
- 348.439. Oversight and report on credits.
- 361.120. Preservation of records — report to governor — destruction of records, when.
- 630.010. Mental health commission — members, terms, qualifications, appointment, vacancies, compensation — organization, meetings.
- 8.597. Advisory committee on tobacco securitization established, members, duties.
- 21.440. Committee created, members, appointment, terms — political representation.
- 21.445. Organization of committee, officers — meetings, quorum — expenses of members.
- 21.450. Employment of personnel — committee on legislative research to provide personnel.
- 21.455. Duties of joint committee.
- 21.460. Institutions to cooperate with committee — may subpoena witnesses and papers.
- 21.465. Annual report of committee, contents.
- 21.530. Committee created, members, appointment — political representation.
- 21.535. Organization of committee, officers — meetings, quorum — expense reimbursement.
- 21.537. Duties — employment of personnel — report to general assembly, when.
- 21.830. Joint committee established, members, meetings, duties, hearings, report — dissolution of committee.
- 21.835. Joint committee to evaluate removal of certain offenses from the sexual offender registry.
- 21.850. Joint committee established, members, duties, report.
- 21.920. Committee established, members, terms, duties — report.
- 30.953. Missouri investment trust created, purpose, powers, duties — board of trustees.
- 30.954. Transfer of certain funds to the Missouri investment trust, when — reconveyance to state treasurer, when.
- 30.956. Investment trust powers.
- 30.959. Principal office, seal, records, reports, audit.
- 30.962. No gain or profit for trustees or employees.
- 30.965. Accounts, investments — board's duties.
- 30.968. Transfer to treasury.
- 30.971. Accounting.
- 33.850. Joint subcommittee organized, members, duties — annual reports, recommendations — meetings, hearings — expiration date.
- 37.250. Committee on state-operated wireless communication systems — members — duties — public policy.
- 99.863. Joint committee on real property tax increment allocation redevelopment, members, appointment, duties.
- 99.971. Joint committee of general assembly to review economic stimulus act, when — report to be submitted, when.
- 99.1057. Joint committee of general assembly to review rural economic stimulus act, when — report to be submitted, when.

- 105.955. Ethics commission established — appointment — qualifications — terms — vacancies — removal — secretary — filings required — investigators — powers and duties of commission — advisory opinions, effect — audits. Ethics commission established — appointment — qualifications — terms — vacancies — removal — restrictions — compensation — administrative secretary — filings required — investigators — powers and duties of commission — advisory opinions, effect — audits.
- 167.195. Eye screening required, when — recording of results — children's vision commission established, members, duties.
- 191.934. Newborn hearing screening advisory committee established, duties, members, compensation — committee to terminate, when.
- 192.632. Task force created, members, duties.
- 215.261. Commission on regulatory barriers to affordable housing created — purpose — report due when, filed with whom.
- 215.262. Members of commission, appointment, qualifications — terms — vacancies how filled — removal of members — expenses.
- 313.001. Committee on gaming and wagering, established — members, compensation — activities.
- 338.321. Interim committee created, purpose, members — report.

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

**SECTION A. ENACTING CLAUSE.** — Sections 8.597, 21.440, 21.445, 21.450, 21.455, 21.460, 21.465, 21.530, 21.535, 21.537, 21.830, 21.835, 21.850, 21.920, 30.953, 30.954, 30.956, 30.959, 30.962, 30.965, 30.968, 30.971, 33.150, 33.710, 33.850, 37.250, 43.518, 99.863, 99.971, 99.1057, 160.530, 167.195, 191.828, 191.934, 192.632, 215.261, 215.262, 217.550, 217.567, 313.001, 320.092, 338.321, 348.439, 361.120, and 630.010, RSMo, and section 105.955 as enacted by senate bill no. 844, ninety-fifth general assembly, second regular session, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 33.150, 33.710, 43.518, 160.530, 191.828, 217.550, 217.567, 320.092, 348.439, 361.120, and 630.010, to read as follows:

**33.150. PRESERVE ALL ACCOUNTS AND VOUCHERS—DESTROY, WHEN.** — The original of all accounts, vouchers and documents approved or to be approved by the commissioner of administration shall be preserved in his office; and copies thereof shall be given without charge to any person, county, city, town, township and school or special road district interested therein, that may require the same for the purpose of being used as evidence in the trial of the cause, and like copies shall be furnished to any corporation or association requiring the same, under tender of the fees allowed by law; provided, that[, during each biennial session of the general assembly,] the commissioner of administration may[, in the presence of a joint committee of the house of representatives and senate,] destroy [by burning or by any other method satisfactory to said joint committee] **or dispose in the manner provided by law of** all paid accounts, vouchers and duplicate receipts of the state treasurer and other documents which may have been on file in the office of the commissioner of administration or his predecessor as custodian of such documents for a period of five years or longer, except such documents as may at the time be the subject of litigation or dispute. [Said joint committee shall consist of four members of the house of representatives, to be appointed by the speaker of the house of representatives, and two members of the senate, to be appointed by the president pro tem of the senate.]

**33.710. COMMITTEE, COMPOSITION — EXPENSES — OFFICERS.** — 1. There is created "The Governmental Emergency Fund Committee" consisting of the governor, the commissioner of administration **as ex officio comptroller**, the chairman and ranking minority member of the senate appropriations committee, the chairman and ranking minority member of the house budget committee, or its successor committee, and the director of the [division of facilities management, design and construction] **department of revenue** who shall serve as consultant to the committee without vote.

2. The members of the committee shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred by them in the performance of their official duties.

3. The committee shall elect from among its members a [chairman and vice chairman] **chair and vice chair** and such other officers as it deems necessary.

**43.518. CRIMINAL RECORDS AND JUSTICE INFORMATION ADVISORY COMMITTEE, ESTABLISHED—PURPOSE—MEMBERS—MEETINGS, QUORUM—MINUTES, DISTRIBUTION, FILING OF.** — 1. There is hereby established within the department of public safety a "Criminal Records and Justice Information Advisory Committee" whose purpose is to:

(1) Recommend general policies with respect to the philosophy, concept and operational principles of the Missouri criminal history record information system established by sections 43.500 to 43.530, in regard to the collection, processing, storage, dissemination and use of criminal history record information maintained by the central repository;

(2) Assess the current state of electronic justice information sharing; and

(3) Recommend policies and strategies, including standards and technology, for promoting electronic justice information sharing, and coordinating among the necessary agencies and institutions; and

(4) Provide guidance regarding the use of any state or federal funds appropriated for promoting electronic justice information sharing.

2. The committee shall be composed of the following officials or their designees: the director of the department of public safety; the director of the department of corrections [and human resources]; the attorney general; the director of the Missouri office of prosecution services; the president of the Missouri prosecutors association; the president of the Missouri court clerks association; the chief clerk of the Missouri state supreme court; the [director of the] state courts administrator; the [chairman] **chair** of the state judicial record committee; the [chairman] **chair** of the court automation committee; the presidents of the Missouri peace officers association; the Missouri sheriffs association; the Missouri police chiefs association or their successor agency; the superintendent of the Missouri highway patrol; the chiefs of police of agencies in jurisdictions with over two hundred thousand population; except that, in any county of the first class having a charter form of government, the chief executive of the county may designate another person in place of the police chief of any countywide police force, to serve on the committee; and, at the discretion of the director of public safety, as many as three other representatives of other criminal justice records systems or law enforcement agencies may be appointed by the director of public safety. The director of the department of public safety will serve as the permanent chairman of this committee.

3. The committee shall meet as determined by the director but not less than semiannually to perform its duties. A majority of the appointed members of the committee shall constitute a quorum.

4. No member of the committee shall receive any state compensation for the performance of duties associated with membership on this committee.

5. Official minutes of all committee meetings will be prepared by the director, promptly distributed to all committee members, and filed by the director for a period of at least five years.

**160.530. ELIGIBILITY FOR STATE AID, ALLOCATION OF FUNDS TO PROFESSIONAL DEVELOPMENT COMMITTEE — STATEWIDE AREAS OF CRITICAL NEED, FUNDS — SUCCESS LEADS TO SUCCESS GRANT PROGRAM CREATED, PURPOSE — LISTING OF EXPENDITURES.** —

1. Beginning with fiscal year 1994 and for all fiscal years thereafter, in order to be eligible for state aid distributed pursuant to section 163.031, a school district shall allocate one percent of moneys received pursuant to section 163.031, exclusive of categorical add-ons, to the professional development committee of the district as established in subdivision (1) of subsection 4 of section 168.400. Of the moneys allocated to the professional development committee in any fiscal year as specified by this subsection, seventy-five percent of such funds shall be spent in the same fiscal year for purposes determined by the professional development committee after consultation with the administrators of the school district and approved by the

local board of education as meeting the objectives of a school improvement plan of the district that has been developed by the local board. Moneys expended for staff training pursuant to any provisions of this act shall not be considered in determining the requirements for school districts imposed by this subsection.

2. Beginning with fiscal year 1994 and for all fiscal years thereafter, eighteen million dollars shall be distributed by the commissioner of education to address statewide areas of critical need for learning and development, provided that such disbursements are approved by the joint committee on education as provided in subsection 5 of this section, and as determined by rule and regulation of the state board of education with the advice of [the commission established by section 160.510 and] the advisory council provided by subsection 1 of section 168.015. The moneys described in this subsection may be distributed by the commissioner of education to colleges, universities, private associations, professional education associations, statewide associations organized for the benefit of members of boards of education, public elementary and secondary schools, and other associations and organizations that provide professional development opportunities for teachers, administrators, family literacy personnel and boards of education for the purpose of addressing statewide areas of critical need, provided that subdivisions (1), (2) and (3) of this subsection shall constitute priority uses for such moneys. "Statewide areas of critical need for learning and development" shall include:

(1) Funding the operation of state management teams in districts with academically deficient schools and providing resources specified by the management team as needed in such districts;

(2) Funding for grants to districts, upon application to the department of elementary and secondary education, for resources identified as necessary by the district, for those districts which are failing to achieve assessment standards;

(3) Funding for family literacy programs;

(4) Ensuring that all children, especially children at risk, children with special needs, and gifted students are successful in school;

(5) Increasing parental involvement in the education of their children;

(6) Providing information which will assist public school administrators and teachers in understanding the process of site-based decision making;

(7) Implementing recommended curriculum frameworks as outlined in section 160.514;

(8) Training in new assessment techniques for students;

(9) Cooperating with law enforcement authorities to expand successful antidrug programs for students;

(10) Strengthening existing curricula of local school districts to stress drug and alcohol prevention;

(11) Implementing and promoting programs to combat gang activity in urban areas of the state;

(12) Establishing family schools, whereby such schools adopt proven models of one-stop state services for children and families;

(13) Expanding adult literacy services; and

(14) Training of members of boards of education in the areas deemed important for the training of effective board members as determined by the state board of education.

3. Beginning with fiscal year 1994 and for all fiscal years thereafter, two million dollars of the moneys appropriated to the department of elementary and secondary education otherwise distributed to the public schools of the state pursuant to the provisions of section 163.031, exclusive of categorical add-ons, shall be distributed in grant awards by the state board of education, by rule and regulation, for the "Success Leads to Success" grant program, which is hereby created. The purpose of the success leads to success grant program shall be to recognize, disseminate and exchange information about the best professional teaching practices and programs in the state that address student needs, and to encourage the staffs of schools with these practices and programs to develop school-to-school networks to share these practices and programs.

4. The department shall include a listing of all expenditures under this section in the annual budget documentation presented to the governor and general assembly.

5. Prior to distributing any funds under subsection 2 of this section, the commissioner of education shall appear before the joint committee on education and present a proposed delineation of the programs to be funded under the provisions of subsection 2 of this section. The joint committee shall review all proposed spending under subsection 2 of this section and shall affirm, by a majority vote of all members serving on the committee, the spending proposal of the commissioner prior to any disbursement of funds under subsection 2 of this section.

6. If any provision of subdivision (11) of subsection 4 of section 160.254 or any provision of subsection 2 or 5 of this section regarding approval of disbursements by the joint committee on education is held to be invalid for any reason, then such decision shall invalidate subsection 2 of this section in its entirety.

**191.828. EVALUATIONS, EFFECT OF INITIATIVES.** — 1. The following departments shall conduct on-going evaluations of the effect of the initiatives enacted by the following sections:

(1) The department of insurance, financial institutions and professional registration shall evaluate the effect of revising section 376.782 and sections 143.999, 208.178, 374.126, and 376.891 to 376.894;

(2) The department of health and senior services shall evaluate the effect of revising sections 105.711 and sections 191.520 and 191.600 and enacting section 191.411, and sections 167.600 to 167.621, 191.231, 208.177, 431.064, and 660.016. In collaboration with the state board of registration for the healing arts, the state board of nursing, and the state board of pharmacy, the department of health and senior services shall also evaluate the effect of revising section 195.070, section 334.100, and section 335.016, and of sections 334.104 and 334.112, and section 338.095 and 338.198;

(3) The department of social services shall evaluate the effect of revising section 198.090, and sections 208.151, 208.152 and 208.215, and section 383.125, and of sections 167.600 to 167.621, 208.177, 208.178, 208.179, 208.181, and 211.490;

(4) The office of administration shall evaluate the effect of revising sections 105.711 and 105.721;

(5) The Missouri consolidated health care plan shall evaluate the effect of section 103.178; and

(6) The department of mental health shall evaluate the effect of section 191.831 as it relates to substance abuse treatment and of section 191.835.

2. The department of revenue and office of administration shall make biannual reports to the [joint committee on health care policy and planning] **general assembly** and the governor concerning the income received into the health initiatives fund and the level of funding required to operate the programs and initiatives funded by the health initiatives fund at an optimal level.

**217.550. PRISON INDUSTRIES AND SERVICES PROGRAM CREATED — DIRECTOR TO ADMINISTER — APPROVAL REQUIRED — REPORT SUBMITTED TO DIRECTOR, CONTENTS.** —

1. The department shall establish and operate at its correctional centers a vocational enterprise program which includes industries, services, vocational training, and agribusiness operations. The director shall have general supervision over planning, establishment and management of all vocational enterprise operations provided by and within the department and shall decide at which correctional center each vocational enterprise shall be located, taking into consideration the offender custody levels, the number of offenders in each correctional center so the best service or distribution of labor may be secured, location and convenience of the correctional centers in relation to the other correctional centers to be supplied or served and the machinery presently contained in each correctional center.

2. No service shall be established or renewed without prior approval by the advisory board of vocational enterprises program established by section 217.555 [and the joint committee on

corrections established by sections 21.440 to 21.465]. [Both] The board [and the committee] shall make a finding that the establishment of the service shall be beneficial to those offenders involved and shall not adversely affect any statewide economic group or industry.

3. The annual report of Missouri vocational enterprises submitted to the director shall include:

(1) A list of the correctional industries, services, vocational training programs, and agribusinesses in operation;

(2) A list of correctional industries, services, vocational training programs, and agribusinesses started, terminated, moved, expanded, or reduced during the period;

(3) The average number of offenders employed in each correctional industry, service, vocational training program, or agribusiness operation;

(4) The volume of sales of articles, services, and materials manufactured, grown, processed or provided;

(5) An operating statement showing the profit or loss of each industry, service, vocational training program, and agribusiness operation;

(6) The amount of sales to state agencies or institutions, to political subdivisions of the state, or any other entity with which the vocational enterprise program does business, and the amount of open market sales, if any; and

(7) Such other information concerning the correctional industries, services, vocational training programs, and agribusiness operations as requested by the director.

**217.567. DIRECTOR MAY CONTRACT WITH PRIVATE ENTITIES FOR EMPLOYMENT OF INMATES—LEASING OF CORRECTIONAL FACILITY PROPERTY—WAGES, DIRECTOR TO SET POLICIES.** — 1. Notwithstanding the provisions of any other law to the contrary, the director is hereby authorized to contract with a private individual, corporation, partnership or other lawful entity for inmate work or vocational training projects involving the manufacture and processing of goods, wares or merchandise, or any service-related business or commercial enterprise deemed by the director to be consistent with the proper employment, training and rehabilitation of offenders.

2. Any contract authorized by this section shall be in compliance with federal law, shall be competitively negotiated by the department and the private entity, shall not result in the displacement of civilian workers employed in the community or state, and shall be subject to the approval of the advisory board of vocational enterprises program created pursuant to section 217.555 [and the joint committee on corrections created pursuant to sections 21.440 to 21.465].

3. The director may lease space in one or more buildings or portions of buildings on the grounds of any correctional center, together with the real estate needed for reasonable access to and egress from the leased premises to a private individual, corporation, partnership or other lawful entity for the purpose of establishing and operating a business enterprise. The enterprise shall at all times observe practices and procedures regarding security as the lease may specify or as the correctional center superintendent may temporarily stipulate during periods of emergency. The enterprise shall be deemed a private enterprise and is subject to all federal and state laws governing the operation of similar private business enterprises as specified by the authorized contract.

4. Subject to the approval of the director and upon such terms as may be prescribed, any lessee operating such an enterprise may employ and discharge from employment selected offenders of the correctional center where the enterprise is operated or from other correctional centers in close proximity. Offenders assigned to such an enterprise are subject to all departmental and divisional rules in addition to rules and regulations promulgated by the authorized contractor. Offenders assigned to such an enterprise for employment purposes shall be required to pay a percentage of their wages as established by the director of not less than five percent nor more than twenty percent of gross wages to the crime victims' compensation fund, section 595.045.

5. The director shall establish policies and procedures for determining the specific wages paid, workers' compensation benefits and deductions from wages to include room and board; federal, state and Social Security taxes; and family support. All deductions must not total more than eighty percent of gross wages. Provisions of the Fair Labor Standards Act shall apply to contractual offender workers.

**320.092. CREATES ANNUAL REPORTING REQUIREMENTS FOR CERTAIN TAX CREDITS.**

— 1. Tax credits issued pursuant to sections 135.400, 135.750 and 320.093 shall be subject to oversight provisions. Effective January 1, 2000, notwithstanding the provisions of section 32.057, the board, department or authority issuing tax credits shall annually report to the office of administration, president pro tem of the senate, **and** the speaker of the house of representatives[, and the joint committee on economic development] regarding the tax credits issued pursuant to sections 135.400, 135.750 and 320.093 which were issued in the previous fiscal year. The report shall contain, but not be limited to, the aggregate number and dollar amount of tax credits issued by the board, department or authority, the number and dollar amount of tax credits claimed by taxpayers, and the number and dollar amount of tax credits unclaimed by taxpayers as well as the number of years allowed for claims to be made. This report shall be delivered no later than November of each year.

2. The reporting requirements established pursuant to subsection 1 of this section shall also apply to the department of economic development and the Missouri development finance board established pursuant to section 100.265. The department and the Missouri development finance board shall report on the tax credit programs which they respectively administer that are authorized under the provisions of chapters 32, 100, 135, 178, 253, 348, 447 and 620.

**348.439. OVERSIGHT AND REPORT ON CREDITS.** — The tax credits issued in sections 348.430 to 348.439 by the Missouri agricultural and small business development authority shall be subject to oversight provisions. Effective January 1, 2000, notwithstanding the provisions of section 32.057, the authority shall annually report to the office of administration, president pro tem of the senate, **and** the speaker of the house of representatives[, and the joint committee on economic development] regarding the tax credits authorized pursuant to sections 348.430 to 348.439 which were issued in the previous fiscal year. The report shall contain, but not be limited to, the aggregate number and dollar amount of tax credits issued by the authority, the number and dollar amount of tax credits claimed by taxpayers, and the number and dollar amount of tax credits unclaimed by taxpayers as well as the number of years allowed for claims to be made. This report shall be delivered no later than November of each year.

**361.120. PRESERVATION OF RECORDS — REPORT TO GOVERNOR — DESTRUCTION OF RECORDS, WHEN.** — 1. The director of finance shall preserve all records, reports and papers of every kind pertaining to the division of finance for a period of ten years, and shall permanently preserve all records, reports and papers of a permanent value, including articles of association and all amendments thereto, and all articles of merger or consolidation and amendments thereto. The director of finance shall make a written report to the governor whenever required by the governor.

2. [During each biennial session of the general assembly the director shall, in the presence of a joint committee of the house of representatives and the senate, destroy by burning or by any other method satisfactory to said joint committee the records, papers and reports which may be disposed of pursuant to this section. The joint committee shall consist of four members of the house of representatives to be appointed by the speaker of the house of representatives and two members of the senate to be appointed by the president pro tem of the senate] **After having kept any records, reports, or papers referred to in this section for a period of ten years, the director may destroy or otherwise dispose of said records in the manner provided by law.**

**630.010. MENTAL HEALTH COMMISSION — MEMBERS, TERMS, QUALIFICATIONS, APPOINTMENT, VACANCIES, COMPENSATION — ORGANIZATION, MEETINGS.** — 1. The state mental health commission, established by the omnibus reorganization act of 1974, section 9, appendix B, RSMo, shall be composed of seven members appointed by the governor, by and with the advice and consent of the senate. The terms of members appointed under the reorganization act before August 13, 1980, shall continue until the terms under which the members were regularly appointed expire. The terms shall be for four years. Each commissioner shall hold office until his successor has been appointed and qualified.

2. The commission shall be comprised of members who are not prohibited from serving by sections 105.450 to 105.482, as amended, and who are not otherwise employed by the state. The commission shall be composed of the following:

- (1) A physician recognized as an expert in the treatment of mental illness;
  - (2) A physician, **licensed clinical psychologist, or other licensed clinician**, recognized as an expert in the evaluation or [habilitation] **treatment** of persons with an intellectual disability or developmental disability;
  - (3) A representative of groups who are consumers or families of consumers interested in the services provided by the department in the treatment of mental illness;
  - (4) A representative of groups who are consumers or families of consumers interested in the services provided by the department in the habilitation of persons with an intellectual disability or developmental disability;
  - (5) A person recognized for his expertise in general business matters and procedures;
  - (6) A person recognized for his interest and expertise in dealing with alcohol or drug abuse;
- and
- (7) A person recognized for his interest or expertise in community mental health services.

3. Vacancies occurring on the commission shall be filled by appointment by the governor, by and with the advice and consent of the senate, for the unexpired terms. In case of a vacancy when the senate is not in session, the governor shall make a temporary appointment until the next session of the general assembly, when he shall nominate someone to fill the office.

4. The commission shall elect from its members a chairman and a secretary. Meetings shall be held at least once a month, and special meetings may be held at the call of the chairman.

5. The department shall pay the commission members one hundred dollars per day for each day, or portion thereof, they actually spend in transacting the business of the commission and shall reimburse the commission members for necessary expenses actually incurred in the performance of their official duties.

**[8.597. ADVISORY COMMITTEE ON TOBACCO SECURITIZATION ESTABLISHED, MEMBERS, DUTIES.** — 1. There is established a joint committee of the general assembly to be known as the "Advisory Committee on Tobacco Securitization", to be comprised of five members of the senate and five members of the house of representatives. Three of the senate members shall be appointed by the president pro tem of the senate and two by the senate minority leader. Three of the house members shall be appointed by the speaker of the house and two by the house minority leader. The appointment of each member shall continue during his or her term of office as a member of the general assembly or until a successor has been duly appointed to fill his or her place when his or her term of office as a member of the general assembly has expired.

2. The committee shall study and recommend who the financial advisors, investment bankers, and other professional advisors shall be for the authority, and shall make a written report to the authority within sixty days of passage of the bill. The committee shall also study and provide a written report by December thirty-first of each year to the authority detailing suggested allowable projects and payments for which money from the tobacco settlement securitization settlement trust fund may be used in the next appropriation cycle.]

**[21.440. COMMITTEE CREATED, MEMBERS, APPOINTMENT, TERMS — POLITICAL REPRESENTATION.** — 1. There is established a permanent joint committee of the general assembly to be known as the "Joint Committee on Corrections" to be comprised of six members of the senate and six members of the house of representatives. The senate members shall be appointed by the president pro tem of the senate and the house members shall be appointed by the speaker of the house. The appointment of each member shall continue during his term of office as a member of the general assembly or until a successor has been duly appointed to fill his place when his term of office as a member of the general assembly has expired.

2. The general assembly by a majority vote of the elected members may discharge any or all of the members of the committee at any time and select their successors.

3. No major party shall be represented on the committee by more than three members from the senate nor by more than three members from the house.]

**[21.445. ORGANIZATION OF COMMITTEE, OFFICERS — MEETINGS, QUORUM — EXPENSES OF MEMBERS.** — 1. The joint committee on corrections shall meet within ten days after its creation and organize by selecting a chairman and a vice chairman, one of whom shall be a member of the senate and the other a member of the house of representatives. The director of research of the committee on legislative research shall serve as secretary to the committee. He shall keep the records of the committee, and shall perform such other duties as may be directed by the committee.

2. The regular meetings of the committee shall be in Jefferson City, Missouri, and after its inception and organization it shall regularly meet at least once every six months.

3. A majority of the members of the committee shall constitute a quorum.

4. The members of the committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.]

**[21.450. EMPLOYMENT OF PERSONNEL — COMMITTEE ON LEGISLATIVE RESEARCH TO PROVIDE PERSONNEL.** — The committee may, within the limits of its appropriation, employ such personnel as it deems necessary; and the committee on legislative research, within the limits of any appropriation made for such purpose, shall supply to the joint committee on corrections such professional, technical, legal, stenographic and clerical help as may be necessary for it to perform its duties.]

**[21.455. DUTIES OF JOINT COMMITTEE.** — It shall be the duty of the committee:

(1) To make a continuing study and analysis of penal and correctional problems as they relate to this state;

(2) To devise and arrange for a long-range program for the department and its correctional centers based on a plan of biennial development and making the recommendation of any required correctional centers in the state in accordance with the general assembly's powers of appropriation;

(3) To inspect at least once each year and as necessary all correctional facilities and properties under the jurisdiction of the department of corrections and of the division of youth services;

(4) To make a continuing study and review of the department of corrections and the correctional facilities under its jurisdiction, including the internal organization, management, powers, duties and functions of the department and its correctional centers, particularly, by way of extension but not of limitation, in relation to the

(a) Personnel of the department;

- (b) Discipline of the correctional facilities;
  - (c) Correctional enterprises;
  - (d) Classification of offenders;
  - (e) Care and treatment of offenders;
  - (f) Educational and vocational training facilities of the correctional centers;
  - (g) Location and establishment of new correctional centers or of new buildings and facilities;
  - (h) All other matters relating to the administration of the state's correctional centers which the committee deems pertinent; and
  - (i) Probations and paroles;
- (5) To make a continuing study and review of the institutions and programs under the jurisdiction of the division of youth services;
- (6) To study and determine the need for changes in the state's criminal laws as they apply to correctional centers and to sentencing, commitment, probation and parole of persons convicted of law violations;
- (7) To determine from such study and analyses the need for changes in statutory law or administrative procedures;
- (8) To make recommendations to the general assembly for legislative action and to the department of corrections and to the division of youth services for administrative or procedural changes.]

**[21.460. INSTITUTIONS TO COOPERATE WITH COMMITTEE —MAY SUBPOENA WITNESSES AND PAPERS. —** 1. The department of corrections, each section and correctional facility within the department and, upon request, any other state agency shall cooperate with and assist the committee in the performance of its duties and shall make available all books, records and information requested.

2. The committee shall have the power to subpoena witnesses, take testimony under oath, compel the attendance of witnesses, the giving of testimony and the production of records.]

**[21.465. ANNUAL REPORT OF COMMITTEE, CONTENTS. —** It shall be the duty of the committee to compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than the fifteenth of January of each year in which the general assembly convenes in regular session and shall include any recommendations which the committee may have for legislative action as well as any recommendations for administrative or procedural changes in the internal management or organization of the department or its correctional facilities. The report shall also include an analysis and statement of the manner in which statutory provisions relating to the department and its several sections are being executed. Copies of the report containing such recommendations shall be sent to the director of the department of corrections and other persons within the department charged with administrative or managerial duties.]

**[21.530. COMMITTEE CREATED, MEMBERS, APPOINTMENT — POLITICAL REPRESENTATION. —** 1. There is established a permanent joint committee of the general assembly to be known as the "Joint Committee on Capital Improvements and Leases Oversight" to be comprised of five members of the senate appropriations committee and five members of the house of representatives budget committee. The senate members shall be appointed by the president pro tem of the senate and the house members shall be appointed by the speaker of the house.

2. No major party shall be represented on the committee by more than three members from the senate nor by more than three members from the house.]

**[21.535. ORGANIZATION OF COMMITTEE, OFFICERS — MEETINGS, QUORUM — EXPENSE REIMBURSEMENT. —** 1. The joint committee on capital improvements and leases oversight shall meet and organize by selecting a chairman and a vice chairman, one of whom shall be a member of the senate and the other a member of the house of representatives. The chairmanship shall alternate between members of the senate and house each two years after its organization.

2. The meetings of the committee shall be in Jefferson City, Missouri, and after its inception and organization it shall meet at the call of the chairman, but shall meet at least once every three months.

3. A majority of the members of the committee shall constitute a quorum.

4. The members of the committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.]

**[21.537. DUTIES — EMPLOYMENT OF PERSONNEL — REPORT TO GENERAL ASSEMBLY, WHEN. —** 1. The joint committee on capital improvements and leases oversight shall:

(1) Monitor all proposed state-funded capital improvement projects, including all operating costs for the first two years after completion of such projects;

(2) Monitor all new construction on any state-funded capital improvements project, excluding capital improvements projects or highway improvements of the state transportation department funded by motor fuel tax revenues;

(3) Monitor any repairs or maintenance on existing state buildings and facilities involving capital expenditures exceeding a specific amount of money to be determined by the committee;

(4) Investigate the total bonded and other indebtedness including lease purchase agreements of this state and its various departments, divisions, and other agencies as it pertains to state building projects;

(5) Perform budgeting analysis for all proposed capital improvement projects including all operating costs for the first two years after completion of the project and cooperate with and assist the house budget committee and the senate appropriations committee with similar analysis;

(6) Monitor all leases and proposed leases of real property funded with state moneys, including any operating costs or other costs associated with any such lease arrangement.

2. The committee may, within the limits of its appropriation, employ such personnel as it deems necessary to carry out the duties imposed by this section.

3. The committee shall compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than the fifteenth of January of each year in which the general assembly convenes in regular session and shall include any recommendations which the committee may have for legislative action.]

**[21.830. JOINT COMMITTEE ESTABLISHED, MEMBERS, MEETINGS, DUTIES, HEARINGS, REPORT — DISSOLUTION OF COMMITTEE. —** 1. There is hereby established a joint committee of the general assembly, which shall be known as the "Joint Committee on Missouri's Energy Future", 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 tem 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 Missouri's present and future energy needs to determine the best strategy to ensure a plentiful, affordable and clean supply of electricity that will meet the needs of the people and businesses of Missouri for the next twenty-five years and ensure that Missourians continue to benefit from low rates for residential, commercial, and industrial energy consumers.

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 economic development, department of natural resources, and the public service commission.

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, 2009, 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.]

**[21.835. JOINT COMMITTEE TO EVALUATE REMOVAL OF CERTAIN OFFENSES FROM THE SEXUAL OFFENDER REGISTRY.** — Consistent with its comprehensive review of the Missouri criminal code, the joint committee on the Missouri criminal code, as established by senate concurrent resolution no. 28 as adopted by the ninety-sixth general assembly, second regular session, shall evaluate removal of offenses from the sexual offender registry which do not jeopardize public safety or do not contribute to the public's assessment of risk associated with offenders.]

**[21.850. 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.]

**[21.920. COMMITTEE ESTABLISHED, MEMBERS, TERMS, DUTIES —REPORT. —**

1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Missouri's Promise" to be composed of five members of the senate and five members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem of the senate and the house members shall be appointed by the speaker of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired. No party shall be represented by more than three members from the house of representatives nor more than three members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The committee shall be charged with the following:

(1) Examining issues that will be impacting the future of the state of Missouri and its citizens;

(2) Developing long-term strategies and plans for:

(a) Increasing the economic prosperity and opportunities for the citizens of this state;

(b) Improving the health status of our citizens;

(c) An education system that educates students who are capable of attending and being productive and successful citizens and designed to successfully prepare graduates for global competition;

(d) Investing in, and maintaining, a modern infrastructure and transportation system and identifying potential sources of revenue to sustain such efforts; and

(e) Other areas that the committee determines are vital to improving the lives of the citizens of Missouri;

(3) Developing three-, five-, and ten-year plans for the general assembly to meet the long-term strategies outlined in subdivision (2) of this subsection;

(4) Implementing budget forecasting for the upcoming ten years in order to plan for the long-term financial soundness of the state; and

(5) Such other matters as the committee may deem necessary in order to determine the proper course of future legislative and budgetary action regarding these issues.

3. The committee may solicit input and information necessary to fulfill its obligations, including, but not limited to, soliciting input and information from any state department or agency the committee deems relevant, political subdivisions of this state, and the general public.

4. By January 1, 2011, and every year thereafter, the committee shall issue a report to the general assembly with any findings or recommendations of the committee with regard to its duties under subsection 2 of this section.

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.]

**[30.953. MISSOURI INVESTMENT TRUST CREATED, PURPOSE, POWERS, DUTIES — BOARD OF TRUSTEES. —** 1. There is hereby created and established as an instrumentality of the state of Missouri, the "Missouri Investment Trust" which shall constitute a body corporate and politic, and shall be managed by a board of trustees as described herein. The purpose of the Missouri investment trust shall be:

(1) To receive, hold, manage, invest and ultimately reconvey to the granting party any funds or property of the state of Missouri which may, from time to time, be transferred to the investment trust pursuant to the terms of a trust agreement with the state of Missouri and the provisions of sections 30.953 to 30.971. All property, money, funds, investments and rights which may be so conveyed to the investment trust shall be dedicated to and held in trust for the state of Missouri and no other until such time as they are reconveyed to the state of Missouri, all as set forth herein; and

(2) To perform other duties assigned by law.

2. The state treasurer, on behalf of the state of Missouri, is hereby authorized to convey designated funds in the state treasury to the Missouri investment trust to be held in trust for the exclusive benefit of the state of Missouri for a fixed period, pursuant to the terms and conditions of a written trust agreement and the provisions of sections 30.953 to 30.971, provided that all the following requirements have been met:

(1) Initially, the general assembly passes and the governor signs legislation designating specific funds in the state treasury as being funds which, due to their nature and purpose, are intended for long-term investment and growth, and accordingly, from which there shall be no appropriations for a period exceeding the longest duration for investments by the state treasury pursuant to section 15, article IV of the Constitution of Missouri. Such legislation shall declare that it is the intention and desire of the general assembly that the state treasurer shall convey, from time to time, the designated funds, in trust, to the Missouri investment trust, and shall further declare the maximum time such funds shall remain in the Missouri investment trust before being reconveyed to the state treasurer by the investment trust; and

(2) Thereafter, an appropriation by the general assembly authorizing disbursement of the designated funds from the state treasury to the Missouri investment trust; and

(3) The Missouri investment trust executes a valid, binding trust agreement, sufficient in form and substance to bind the investment trust to hold, maintain, and invest the designated funds, in trust, for the exclusive benefit of the state of Missouri, for the prescribed period, whereupon the investment trust shall reconvey the designated funds and any earnings thereon to the state treasury.

3. The investment trust may hold and invest funds so designated in order to satisfy the specific long-term investment goals of such funds, but the investment trust shall not be utilized to invest idle general revenue funds of the state treasury. No more than one hundred million dollars, in aggregate, may be conveyed to the investment trust pursuant to sections 30.953 to 30.971. Total assets under management by the investment trust may exceed one hundred million dollars, but no new funds may be conveyed to the investment trust until such time as previous existing transfers to the investment trust total less than one hundred million dollars.

4. The board of trustees of the investment trust shall consist of the state treasurer, who shall serve as chairman, the commissioner of administration, one member appointed by the speaker of the house of representatives, one member appointed by the president pro tem of the senate and three members to be selected by the governor, with the advice and consent of the senate. The persons to be selected by the governor shall be individuals knowledgeable in the areas of banking, finance or the investment and management of public funds. Not more than two of the members appointed by the governor shall be from the same political party. The initial members of the board of trustees appointed by the governor shall serve the following terms: one shall serve two

years, one shall serve three years, and one shall serve four years, respectively. Thereafter, each appointment shall be for a term of four years. If for any reason a vacancy occurs, the governor, with the advice and consent of the senate, shall appoint a new member to fill the unexpired term. Members are eligible for reappointment.

5. Five members of the board of trustees of the investment trust shall constitute a quorum. No vacancy in the membership of the board of trustees shall impair the right of a quorum to exercise all the rights and perform all the duties of the board of trustees of the investment trust. No action shall be taken by the board of trustees of the investment trust except upon the affirmative vote of at least four of the members of the board where a quorum is present.

6. The board of trustees shall meet within the state of Missouri at the time set at a previously scheduled meeting or by the request of any four members of the board. Notice of the meeting shall be delivered to all other trustees in person or by depositing notice in a United States post office in a properly stamped and addressed envelope not less than six days prior to the date fixed for the meeting. The board may meet at any time by unanimous mutual consent. There shall be at least one meeting in each quarter.

7. In the event any trustee other than the state treasurer or the commissioner of administration fails to attend three consecutive meetings of the board, unless in each case excused for cause by the remaining trustees attending such meetings, such trustee shall be considered to have resigned from the board and the chairman shall declare such trustee's office vacated, and the vacancy shall be filled in the same manner as originally filled.

8. Each member of the board of trustees appointed by the governor, unless prohibited by law, is entitled to compensation of fifty dollars per diem plus such member's reasonable and necessary expenses actually incurred in discharging such member's duties pursuant to sections 30.953 to 30.971.]

**[30.954. TRANSFER OF CERTAIN FUNDS TO THE MISSOURI INVESTMENT TRUST, WHEN — RECONVEYANCE TO STATE TREASURER, WHEN. —** As authorized pursuant to subsection 2 of section 30.953, it is the intention and desire of the general assembly that the state treasurer convey to the Missouri investment trust on January 1, 2000, up to one hundred percent of the balances of the Wolfner library trust fund established in section 181.150, the Missouri arts council trust fund established in section 185.100, the Missouri humanities council trust fund established in section 186.055, and the Pansy Johnson-Travis memorial state gardens trust fund established in section 253.380. On January 2, 2010, the Wolfner library trust fund, the Missouri arts council trust fund, the Missouri humanities council trust fund and the Pansy Johnson-Travis memorial state gardens trust fund shall be reconveyed to the state treasurer by the investment trust.]

**[30.956. INVESTMENT TRUST POWERS. —** The investment trust is hereby granted, has and may exercise all powers necessary or appropriate for it or its agents or employees to carry out and effectuate its purpose, including but not limited to the following:

(1) To purchase, acquire, hold, invest, lend, lease, sell, assign, transfer and dispose of all funds, property, rights and securities, and enter into written contracts, releases, compromises and other instruments necessary or convenient for the exercise of its powers, or to carry out the purposes of a trust agreement or sections 30.953 to 30.971;

(2) To make, and from time to time, amend and repeal bylaws, rules and regulations not inconsistent with the provisions of sections 30.953 to 30.971 for the regulation of its affairs and the conduct of its business;

(3) To accept appropriations, gifts, grants, bequests and devises and to utilize or dispose of the same to carry out its purpose or the terms of a trust agreement;

(4) To invest any funds or property not required for immediate disbursement in accordance with sections 30.953 to 30.971, and consistent with the principles set forth in sections 105.687 to 105.690, except that nothing herein shall be deemed to authorize investment in venture capital firms or small business investment companies, as defined in those statutory sections;

(5) To sue and be sued;

(6) To have a seal and alter the same at will;

(7) To enter into agreements or other transactions with any federal or state agency, person, or domestic or foreign partnership, corporation, association or organization;

(8) To procure insurance against any loss in connection with the property it holds in trust in such amounts and from such insurers as may be necessary or desirable;

(9) To hire or retain such agents or employees as necessary to carry out and effectuate its purpose and the requirements of sections 30.953 to 30.971.]

**[30.959. PRINCIPAL OFFICE, SEAL, RECORDS, REPORTS, AUDIT. —** 1. The principal office of the investment trust shall be in Jefferson City. The investment trust shall have a seal bearing the inscription "Missouri Investment Trust", which shall be in the custody of the state treasurer. The courts of this state shall take judicial notice of the seal and all copies of records, books, and written instruments which are kept in the office of the investment trust and are certified by the state treasurer under the seal shall be proved or admitted in any court or proceeding as provided by section 109.130.

2. The board of trustees of the investment trust shall keep a complete record of all its proceedings which shall be open to the public in accordance with the provisions of chapter 610.

3. The board of trustees shall annually prepare and have available as public information a comprehensive annual financial report showing the financial status of the investment trust as of the end of the trust's fiscal year. The report shall contain, but not be limited to, detailed financial statements prepared in accordance with generally accepted accounting principles for trust funds, a detailed listing of the investments, showing both cost and market value, held by the investment trust as of the date of the report together with a detailed statement of the annual rates of investment return from all assets and from each type of investment, a detailed list of investments acquired and disposed of during the fiscal year, a listing of the investment trust's board of trustees and responsible administrative staff, a detailed list of administrative expenses of the investment trust including all fees paid for professional services, a detailed list of brokerage commissions paid, and such other data as the board shall deem necessary or desirable for a proper understanding of the condition of the investment trust. In the event the investment trust is unable to comply with any of the disclosure requirements outlined above, a detailed statement shall be included in the report as to the reason for such noncompliance. A copy of the comprehensive annual financial report as outlined above shall be forwarded within six months of the end of the investment trust's fiscal year to the governor of Missouri.

4. The state auditor shall conduct an annual audit of the records and accounts of the investment trust and shall report the findings to the board of trustees and the governor.]

**[30.962. NO GAIN OR PROFIT FOR TRUSTEES OR EMPLOYEES. —** 1. No trustee or employee of the investment trust shall receive any gain or profit from any funds or transaction of the investment trust.

2. Any trustee, employee or agent of the investment trust accepting any gratuity or compensation for the purpose of influencing such trustee's, employee's or agent's action with respect to the investment or management of the funds of the investment trust shall thereby forfeit the office and in addition thereto be subject to the penalties prescribed for bribery.]

**[30.965. ACCOUNTS, INVESTMENTS—BOARD'S DUTIES.** — 1. The investment trust shall set up and maintain the system of accounts necessary to monitor, preserve and ultimately reconvey the funds conveyed to it pursuant to sections 30.953 to 30.971. All funds, property, income and earnings received by the investment trust from any and all sources shall be promptly credited to the appropriate account.

2. Unless and until invested in compliance with sections 30.953 to 30.971, all moneys received by the investment trust shall be promptly deposited to the credit of the investment trust in one or more banks or financial institutions in this state. No such money shall be deposited in or be retained by any bank or financial institution which does not continually have on deposit with and pledged for the benefit of the investment trust the kind and value of collateral required by section 30.270, for depositaries of the state treasurer.

3. The board of trustees shall invest all funds under its control which are in excess of a safe operating balance and not subject to imminent conveyance to the state treasury. The funds shall be invested only in those investments which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims, as provided in section 105.688. The board of trustees may delegate to duly appointed investment counselors authority to act in place of the board in the investment and reinvestment of all or part of the moneys of the trust, and may also delegate to such counselors the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring or disposing of any or all of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys. Such investment counselors shall be registered as investment advisors with the United States Securities and Exchange Commission. In exercising or delegating its investment powers and authority, members of the board of trustees shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. No member of the board of trustees shall be liable for any action taken or omitted with respect to the exercise of, or delegation of, these powers and authority if such member shall have discharged the duties of his or her position in good faith and with that degree of diligence, care and skill which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

4. No investment transaction authorized by the board of trustees shall be handled by any company or firm in which a member of the board has a substantial interest, nor shall any member of the board profit directly or indirectly from any such investment. All investments shall be made for the account of the investment trust, and any securities or other properties obtained by the board of trustees may be held by a custodian in the name of the investment trust, or in the name of a nominee in order to facilitate the expeditious transfer of such securities or other property. Such securities or other properties which are not available in registered form may be held in bearer form or in book entry form. The investment trust is further authorized to deposit, or have deposited for its account, eligible securities in a central depository system or clearing corporation or in a federal reserve bank under a book entry system as defined in the Uniform Commercial Code, chapter 400. When such eligible securities of the investment trust are so deposited with a central depository system they may be merged

and held in the name of the nominee of such securities depository and title to such securities may be transferred by bookkeeping entry on the books of such securities depository or federal reserve bank without physical delivery of the certificates or documents representing such securities.

5. With appropriate safeguards against loss by the investment trust in any contingency, the board of trustees may designate a bank or trust company to serve as a depository of trust funds and intermediary in the investment of those funds and payment of trust obligations.

6. The board of trustees may employ a financial institution having fiduciary powers for the provision of such custodial or clerical services as the board may deem appropriate.

7. Consistent with the exercise of its fiduciary responsibilities, the board of trustees may provide for the payment of any costs or expenses for the employees, agents, services or transactions necessary for the execution of sections 30.953 to 30.971 in the form, manner and amount that the board deems appropriate.

8. The board of trustees shall take the necessary steps, consistent with the exercise of its fiduciary responsibilities, to ensure that the investment trust has sufficient available assets to satisfy any obligation to reconvey property held in trust at the end of the term established in a trust agreement.

9. Any funds or property in the charge and custody of the board of trustees of the investment trust pursuant to the provisions of sections 30.953 to 30.971 shall not be subject to execution, garnishment, attachment or any other process whatsoever and shall be unassignable, unless otherwise specifically provided in sections 30.953 to 30.971.]

**[30.968. TRANSFER TO TREASURY.** — Upon completion of the fixed period identified in a trust agreement with the state of Missouri, the investment trust shall promptly transfer to the state treasury the current corpus of the property originally conveyed in trust, along with any interest, income or other earnings thereon.]

**[30.971. ACCOUNTING.** — For the purposes of the books and records of the state of Missouri, any funds or property held by the investment trust pursuant to sections 30.953 to 30.971 shall be treated, consistent with generally accepted accounting principles, in the same manner as property of a not-for-profit, tax-exempt beneficiary which is held in trust by a trustee for a fixed period.]

**[33.850. JOINT SUBCOMMITTEE ORGANIZED, MEMBERS, DUTIES — ANNUAL REPORTS, RECOMMENDATIONS — MEETINGS, HEARINGS — EXPIRATION DATE.** —

1. The committee on legislative research shall organize a subcommittee, which shall be known as the "Joint Subcommittee on Recovery Accountability and Transparency", to coordinate and conduct oversight of covered funds to prevent fraud, waste, and abuse.

2. The subcommittee shall consist of the following eight members:

(1) One-half of the members appointed by the chairperson from the house which he or she represents, two of whom shall be from the majority party and two of whom shall be from the minority party; and

(2) One-half of the members appointed by the vice chairperson from the house which he or she represents, two of whom shall be from the majority party and two of whom shall be from the minority party.

3. The appointment of the senate and house members shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired.

4. The subcommittee shall coordinate and conduct oversight of covered funds in order to prevent fraud, waste, and abuse, including:

(1) Reviewing whether the reporting of contracts and grants using covered funds meets applicable standards and specifies the purpose of the contract or grant and measures of performance;

(2) Reviewing whether competition requirements applicable to contracts and grants using covered funds have been satisfied;

(3) Reviewing covered funds to determine whether wasteful spending, poor contract or grant management, or other abuses are occurring and referring matters it considers appropriate for investigation to the attorney general or the agency that disbursed the covered funds;

(4) Receiving regular reports from the commissioner of the office of administration, or his or her designee, concerning covered funds; and

(5) Reviewing the number of jobs created using these funds.

5. The subcommittee shall submit annual reports to the governor and general assembly, including the senate appropriations committee and house budget committee, that summarize the findings of the subcommittee with regard to its duties in subsection 4 of this section. All reports submitted under this subsection shall be made publicly available and posted on the governor's website, the general assembly website, and each state agency website. Any portion of a report submitted under this subsection may be redacted when made publicly available, if that portion would disclose information that is not subject to disclosure under chapter 610, or any other provision of state law.

6. (1) The subcommittee shall make recommendations to agencies on measures to prevent fraud, waste, and abuse relating to covered funds.

(2) Not later than thirty days after receipt of a recommendation under subdivision (1) of this subsection, an agency shall submit a report to the governor and general assembly, including the senate appropriations committee and house budget committee, and the subcommittee that states:

(a) Whether the agency agrees or disagrees with the recommendations; and

(b) Any actions the agency will take to implement the recommendations.

7. The subcommittee may:

(1) Review audits from the state auditor and conduct reviews relating to covered funds; and

(2) Receive regular testimony from the state auditor relating to audits of covered funds.

8. (1) Not later than thirty days after the date on which all initial members of the subcommittee have been appointed, the subcommittee shall hold its first meeting. Thereafter, the subcommittee shall meet at the call of the chairperson of the subcommittee.

(2) A majority of the members of the subcommittee shall constitute a quorum, but a lesser number of members may hold hearings.

9. The subcommittee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the subcommittee considers advisable to carry out the provisions of this section. Each agency of this state shall cooperate with any request of the subcommittee to provide such information as the subcommittee deems necessary to carry out the provisions of this section. Upon request of the subcommittee, the head of each agency shall furnish such information to the subcommittee. The head of each agency shall make all officers and employees of that agency available to provide testimony to the subcommittee and committee personnel.

10. Subject to appropriations, the subcommittee may enter into contracts with public agencies and with private persons to enable the subcommittee to discharge its

duties under the provisions of this section, including contracts and other arrangements for studies, analyses, and other services.

11. The members of the subcommittee shall serve without compensation, but may be reimbursed for reasonable and necessary expenses incurred in the performance of their official duties.

12. As used in this section, the term "covered fund" shall mean any moneys received by the state or any political subdivision under the American Recovery and Reinvestment Act of 2009, as enacted by the 111th United States Congress.

13. This section shall expire March 1, 2013.]

**[37.250. COMMITTEE ON STATE-OPERATED WIRELESS COMMUNICATION SYSTEMS — MEMBERS — DUTIES — PUBLIC POLICY. —** 1. The general assembly declares it is the public policy of this state to determine the most cost-effective systems to provide ubiquitous coverage of the state transparent communications between all members of all using agencies, and the necessary E911 capability to provide assured emergency response, and to reduce the response time for emergency or disastrous situations.

2. There is hereby created a committee on state-operated wireless communication systems to be composed of:

- (1) The commissioner of administration or a designee;
- (2) The director of the department of public safety or a designee;
- (3) The director of the department of conservation or a designee; and
- (4) The chief engineer of the department of transportation or a designee.

3. The committee shall examine existing programs and proposals for development or expansion to identify duplication in resource allocation of wireless communication systems. The committee shall submit a report to the general assembly by August 30, 1998, in which it identifies opportunities for cost savings, increased efficiency and improved services for Missouri's citizens. The committee shall review the state's purchasing law and may recommend such changes to chapter 34 as it deems appropriate to maintain and enhance the state's wireless communication system. The committee may make such other recommendations as it deems appropriate and shall identify the costs associated with each such recommendation.]

**[99.863. JOINT COMMITTEE ON REAL PROPERTY TAX INCREMENT ALLOCATION REDEVELOPMENT, MEMBERS, APPOINTMENT, DUTIES. —** Beginning in 1999, and every five years thereafter, a joint committee of the general assembly, comprised of five members appointed by the speaker of the house of representatives and five members appointed by the president pro tem of the senate, shall review sections 99.800 to 99.865. A report based on such review, with any recommended legislative changes, shall be submitted to the speaker of the house of representatives and the president pro tem of the senate no later than February first following the year in which the review is conducted.]

**[99.971. JOINT COMMITTEE OF GENERAL ASSEMBLY TO REVIEW ECONOMIC STIMULUS ACT, WHEN — REPORT TO BE SUBMITTED, WHEN. —** Beginning in 2008, and every five years thereafter, a joint committee of the general assembly, comprised of five members appointed by the speaker of the house of representatives and five members appointed by the president pro tempore of the senate, shall review sections 99.915 to 99.980. A report based on such review, with any recommended legislative changes, shall be submitted to the speaker of the house of representatives and the president pro tempore of the senate no later than February first following the year in which the review is conducted.]

**99.1057. JOINT COMMITTEE OF GENERAL ASSEMBLY TO REVIEW RURAL ECONOMIC STIMULUS ACT, WHEN — REPORT TO BE SUBMITTED, WHEN.** — Beginning in 2008, and every five years thereafter, a joint committee of the general assembly, comprised of five members appointed by the speaker of the house of representatives and five members appointed by the president pro tempore of the senate, shall review sections 99.1000 to 99.1060. A report based on such review, with any recommended legislative changes, shall be submitted to the speaker of the house of representatives and the president pro tempore of the senate no later than February first following the year in which the review is conducted.]

**105.955. ETHICS COMMISSION ESTABLISHED — APPOINTMENT — QUALIFICATIONS — TERMS — VACANCIES — REMOVAL — SECRETARY — FILINGS REQUIRED — INVESTIGATORS — POWERS AND DUTIES OF COMMISSION — ADVISORY OPINIONS, EFFECT — AUDITS.** — 1. A bipartisan "Missouri Ethics Commission", composed of six members, is hereby established. The commission shall be assigned to the office of administration with supervision by the office of administration only for budgeting and reporting as provided by subdivisions (4) and (5) of subsection 6 of section 1 of the Reorganization Act of 1974. Supervision by the office of administration shall not extend to matters relating to policies, regulative functions or appeals from decisions of the commission, and the commissioner of administration, any employee of the office of administration, or the governor, either directly or indirectly, shall not participate or interfere with the activities of the commission in any manner not specifically provided by law and shall not in any manner interfere with the budget request of or withhold any moneys appropriated to the commission by the general assembly. All members of the commission shall be appointed by the governor with the advice and consent of the senate from lists submitted pursuant to this section. Each congressional district committee of the political parties having the two highest number of votes cast for their candidate for governor at the last gubernatorial election shall submit two names of eligible nominees for membership on the commission to the governor, and the governor shall select six members from such nominees to serve on the commission.

2. Within thirty days of submission of the person's name to the governor as provided in subsection 1 of this section, and in order to be an eligible nominee for appointment to the commission, a person shall file a financial interest statement in the manner provided by section 105.485 and shall provide the governor, the president pro tempore of the senate, and the commission with a list of all political contributions and the name of the candidate or committee, political party, or political action committee, as defined in chapter 130, to which those contributions were made within the four-year period prior to such appointment, made by the nominee, the nominee's spouse, or any business entity in which the nominee has a substantial interest. The information shall be maintained by the commission and available for public inspection during the period of time during which the appointee is a member of the commission. In order to be an eligible nominee for membership on the commission, a person shall be a citizen and a resident of the state and shall have been a registered voter in the state for a period of at least five years preceding the person's appointment.

3. The term of each member shall be for four years, except that of the members first appointed, the governor shall select three members from even-numbered congressional districts and three members from odd-numbered districts. Not more than three members of the commission shall be members of the same political party, nor shall more than one member be from any one United States congressional district. Not more than two members appointed from the even-numbered congressional districts shall be members of the same political party, and no more than two members from the

odd-numbered congressional districts shall be members of the same political party. Of the members first appointed, the terms of the members appointed from the odd-numbered congressional districts shall expire on March 15, 1994, and the terms of the members appointed from the even-numbered congressional districts shall expire on March 15, 1996. Thereafter all successor members of the commission shall be appointed for four-year terms. Terms of successor members of the commission shall expire on March fifteenth of the fourth year of their term. No member of the commission shall serve on the commission after the expiration of the member's term. No person shall be appointed to more than one full four-year term on the commission.

4. Vacancies or expired terms on the commission shall be filled in the same manner as the original appointment was made, except as provided in this subsection. Within thirty days of the vacancy or ninety days before the expiration of the term, the names of two eligible nominees for membership on the commission shall be submitted to the governor by the congressional district committees of the political party or parties of the vacating member or members, from the even- or odd-numbered congressional districts, based on the residence of the vacating member or members, other than from the congressional district committees from districts then represented on the commission and from the same congressional district party committee or committees which originally appointed the member or members whose positions are vacated. Appointments to fill vacancies or expired terms shall be made within forty-five days after the deadline for submission of names by the congressional district committees, and shall be subject to the same qualifications for appointment and eligibility as is provided in subsections 2 and 3 of this section. Appointments to fill vacancies for unexpired terms shall be for the remainder of the unexpired term of the member whom the appointee succeeds, and such appointees shall be eligible for appointment to one full four-year term. If the congressional district committee does not submit the required two nominees within the thirty days or if the congressional district committee does not submit the two nominees within an additional thirty days after receiving notice from the governor to submit the nominees, then the governor may appoint a person or persons who shall be subject to the same qualifications for appointment and eligibility as provided in subsections 2 and 3 of this section.

5. The governor, with the advice and consent of the senate, may remove any member only for substantial neglect of duty, inability to discharge the powers and duties of office, gross misconduct or conviction of a felony or a crime involving moral turpitude. Members of the commission also may be removed from office by concurrent resolution of the general assembly signed by the governor. If such resolution receives the vote of two-thirds or more of the membership of both houses of the general assembly, the signature of the governor shall not be necessary to effect removal. The office of any member of the commission who moves from the congressional district from which the member was appointed shall be deemed vacated upon such change of residence.

6. The commission shall elect biennially one of its members as the chairman. The chairman may not succeed himself or herself after two years. No member of the commission shall succeed as chairman any member of the same political party as himself or herself. At least four members are necessary to constitute a quorum, and at least four affirmative votes shall be required for any action or recommendation of the commission.

7. No member or employee of the commission, during the person's term of service, shall hold or be a candidate for any other public office.

8. In the event that a retired judge is appointed as a member of the commission, the judge shall not serve as a special investigator while serving as a member of the commission.

9. No member of the commission shall, during the member's term of service or within one year thereafter:

- (1) Be employed by the state or any political subdivision of the state;
- (2) Be employed as a lobbyist;
- (3) Serve on any other governmental board or commission;
- (4) Be an officer of any political party or political organization;
- (5) Permit the person's name to be used, or make contributions, in support of or in opposition to any candidate or proposition;

(6) Participate in any way in any election campaign; except that a member or employee of the commission shall retain the right to register and vote in any election, to express the person's opinion privately on political subjects or candidates, to participate in the activities of a civic, community, social, labor or professional organization and to be a member of a political party.

10. Each member of the commission shall receive, as full compensation for the member's services, the sum of one hundred dollars per day for each full day actually spent on work of the commission, and the member's actual and necessary expenses incurred in the performance of the member's official duties.

11. The commission shall appoint an executive director who shall serve subject to the supervision of and at the pleasure of the commission, but in no event for more than six years. The executive director shall be responsible for the administrative operations of the commission and perform such other duties as may be delegated or assigned to the director by law or by rule of the commission. The executive director shall employ staff and retain such contract services as the director deems necessary, within the limits authorized by appropriations by the general assembly.

12. Beginning on January 1, 1993, all lobbyist registration and expenditure reports filed pursuant to section 105.473, financial interest statements filed pursuant to subdivision (1) of section 105.489, and campaign finance disclosure reports filed other than with election authorities or local election authorities as provided by section 130.026 shall be filed with the commission.

13. Within sixty days of the initial meeting of the first commission appointed, the commission shall obtain from the clerk of the supreme court or the state courts administrator a list of retired appellate and circuit court judges who did not leave the judiciary as a result of being defeated in an election. The executive director shall determine those judges who indicate their desire to serve as special investigators and to investigate any and all complaints referred to them by the commission. The executive director shall maintain an updated list of those judges qualified and available for appointment to serve as special investigators. Such list shall be updated at least annually. The commission shall refer complaints to such special investigators on that list on a rotating schedule which ensures a random assignment of each special investigator. Each special investigator shall receive only one unrelated investigation at a time and shall not be assigned to a second or subsequent investigation until all other eligible investigators on the list have been assigned to an investigation. In the event that no special investigator is qualified or available to conduct a particular investigation, the commission may appoint a special investigator to conduct such particular investigation.

14. The commission shall have the following duties and responsibilities relevant to the impartial and effective enforcement of sections 105.450 to 105.496 and chapter 130, as provided in sections 105.955 to 105.963:

- (1) Receive and review complaints regarding alleged violation of sections 105.450 to 105.496 and chapter 130, conduct initial reviews and investigations regarding such complaints as provided herein; refer complaints to appropriate prosecuting authorities and appropriate disciplinary authorities along with

recommendations for sanctions; and initiate judicial proceedings as allowed by sections 105.955 to 105.963;

(2) Review and investigate any reports and statements required by the campaign finance disclosure laws contained in chapter 130, and financial interest disclosure laws or lobbyist registration and reporting laws as provided by sections 105.470 to 105.492, for timeliness, accuracy and completeness of content as provided in sections 105.955 to 105.963;

(3) Conduct investigations as provided in subsection 2 of section 105.959;

(4) Develop appropriate systems to file and maintain an index of all such reports and statements to facilitate public access to such information, except as may be limited by confidentiality requirements otherwise provided by law, including cross-checking of information contained in such statements and reports. The commission may enter into contracts with the appropriate filing officers to effectuate such system. Such filing officers shall cooperate as necessary with the commission as reasonable and necessary to effectuate such purposes;

(5) Provide information and assistance to lobbyists, elected and appointed officials, and employees of the state and political subdivisions in carrying out the provisions of sections 105.450 to 105.496 and chapter 130;

(6) Make recommendations to the governor and general assembly or any state agency on the need for further legislation with respect to the ethical conduct of public officials and employees and to advise state and local government in the development of local government codes of ethics and methods of disclosing conflicts of interest as the commission may deem appropriate to promote high ethical standards among all elected and appointed officials or employees of the state or any political subdivision thereof and lobbyists;

(7) Render advisory opinions as provided by this section;

(8) Promulgate rules relating to the provisions of sections 105.955 to 105.963 and chapter 130. All rules and regulations issued by the commission shall be prospective only in operation;

(9) Request and receive from the officials and entities identified in subdivision (6) of section 105.450 designations of decision-making public servants.

15. In connection with such powers provided by sections 105.955 to 105.963 and chapter 130, the commission may:

(1) Subpoena witnesses and compel their attendance and testimony. Subpoenas shall be served and enforced in the same manner provided by section 536.077;

(2) Administer oaths and affirmations;

(3) Take evidence and require by subpoena duces tecum the production of books, papers, and other records relating to any matter being investigated or to the performance of the commission's duties or exercise of its powers. Subpoenas duces tecum shall be served and enforced in the same manner provided by section 536.077;

(4) Employ such personnel, including legal counsel, and contract for services including legal counsel, within the limits of its appropriation, as it deems necessary provided such legal counsel, either employed or contracted, represents the Missouri ethics commission before any state agency or before the courts at the request of the Missouri ethics commission. Nothing in this section shall limit the authority of the Missouri ethics commission as provided for in subsection 2 of section 105.961; and

(5) Obtain information from any department, division or agency of the state or any political subdivision reasonably calculated to lead to the discovery of evidence which will reasonably assist the commission in carrying out the duties prescribed in sections 105.955 to 105.963 and chapter 130.

16. (1) Upon written request for an advisory opinion received by the commission, and if the commission determines that the person requesting the opinion

would be directly affected by the application of law to the facts presented by the requesting person, the commission shall issue a written opinion advising the person who made the request, in response to the person's particular request, regarding any issue that the commission can receive a complaint on pursuant to section 105.957. The commission may decline to issue a written opinion by a vote of four members and shall provide to the requesting person the reason for the refusal in writing. The commission shall give an approximate time frame as to when the written opinion shall be issued. Such advisory opinions shall be issued no later than ninety days from the date of receipt by the commission. Such requests and advisory opinions, deleting the name and identity of the requesting person, shall be compiled and published by the commission on at least an annual basis. Advisory opinions issued by the commission shall be maintained and made available for public inspection and copying at the office of the commission during normal business hours. Any advisory opinion or portion of an advisory opinion rendered pursuant to this subsection shall be withdrawn by the commission if, after hearing thereon, the joint committee on administrative rules finds that such advisory opinion is beyond or contrary to the statutory authority of the commission or is inconsistent with the legislative intent of any law enacted by the general assembly, and after the general assembly, by concurrent resolution, votes to adopt the findings and conclusions of the joint committee on administrative rules. Any such concurrent resolution adopted by the general assembly shall be published at length by the commission in its publication of advisory opinions of the commission next following the adoption of such resolution, and a copy of such concurrent resolution shall be maintained by the commission, along with the withdrawn advisory opinion, in its public file of advisory opinions. The commission shall also send a copy of such resolution to the person who originally requested the withdrawn advisory opinion. Any advisory opinion issued by the ethics commission shall act as legal direction to any person requesting such opinion and no person shall be liable for relying on the opinion and it shall act as a defense of justification against prosecution. An advisory opinion of the commission shall not be withdrawn unless:

- (a) The authorizing statute is declared unconstitutional;
- (b) The opinion goes beyond the power authorized by statute; or
- (c) The authorizing statute is changed to invalidate the opinion.

(2) Upon request, the attorney general shall give the attorney general's opinion, without fee, to the commission, any elected official of the state or any political subdivision, any member of the general assembly, or any director of any department, division or agency of the state, upon any question of law regarding the effect or application of sections 105.450 to 105.496 or chapter 130. Such opinion need be in writing only upon request of such official, member or director, and in any event shall be rendered within sixty days after such request is delivered to the attorney general.

17. The state auditor and the state auditor's duly authorized employees who have taken the oath of confidentiality required by section 29.070 may audit the commission and in connection therewith may inspect materials relating to the functions of the commission. Such audit shall include a determination of whether appropriations were spent within the intent of the general assembly, but shall not extend to review of any file or document pertaining to any particular investigation, audit or review by the commission, an investigator or any staff or person employed by the commission or under the supervision of the commission or an investigator. The state auditor and any employee of the state auditor shall not disclose the identity of any person who is or was the subject of an investigation by the commission and whose identity is not public information as provided by law.

18. From time to time but no more frequently than annually the commission may request the officials and entities described in subdivision (6) of section 105.450 to

identify for the commission in writing those persons associated with such office or entity which such office or entity has designated as a decision-making public servant. Each office or entity delineated in subdivision (6) of section 105.450 receiving such a request shall identify those so designated within thirty days of the commission's request.]

**[167.195. EYE SCREENING REQUIRED, WHEN — RECORDING OF RESULTS — CHILDREN'S VISION COMMISSION ESTABLISHED, MEMBERS, DUTIES. —** 1. Beginning July 1, 2008, and continuing through the 2010-11 school year unless extended by act of the general assembly, all public school districts shall conduct an eye screening for each student once before the completion of first grade and again before the completion of third grade. The eye screening method utilized shall be one approved by the children's vision commission and shall be performed by an appropriately trained school nurse or other trained and qualified employee of the school district.

2. Results of each eye screening shall be recorded on a form provided by the department of health and senior services, developed and approved by the children's vision commission established under this section.

(1) The screening results, with all individual identifying information removed, shall be sent to the state department of health and senior services via electronic form and shall compile the data contained in the reports for review and analysis by the commission or other interested parties;

(2) When a student fails the eye screening, the school district shall send a notice developed by the commission to the parent or guardian notifying them of the results of the eye screening and propose that the student receive a complete eye examination from an optometrist or physician. Such notice shall have a place for the parent to acknowledge receipt along with an indication as to whether the student has received a complete eye examination and the results of the examination. Evidence of an examination provided by an optometrist or physician within the year preceding the school eye screening shall be sufficient for meeting the requirements of this section. The notice completed by the parent or guardian is to be returned to the school and shall be retained in the student's file and a copy shall be sent to the department of health and senior services;

(3) Notwithstanding any law to the contrary, nothing in this section shall violate any provisions of Public Law 104-191, 42 U.S.C. 201, et seq, Health Insurance Portability and Accountability Act of 1996.

3. The "Children's Vision Commission" is hereby established which shall cease to exist on June 30, 2012, unless renewed by act of the general assembly.

(1) The commission shall be composed of seven members appointed by the governor: two ophthalmologists to be determined from a list of recommended ophthalmologists by the Missouri Society of Eye Physicians and Surgeons; two optometrists to be determined from a list of recommended optometrists by the Missouri Optometric Association; one school nurse; one representative from the department of elementary and secondary education; and one representative from the Missouri state school boards association. Each ophthalmologist and optometrist shall serve a one-year term as chair of the commission. Members of the commission shall serve without compensation, but may be reimbursed for reasonable and necessary expenses associated with carrying out their duties.

(2) Duties of the commission shall be as follows:

(a) Analyze and adopt one or more standardized eye screening and eye examination tests to carry out the requirements of this section to be used in all schools

beginning with the 2008-09 school year which, in the commission's estimation, have a reasonable expectation of identifying vision problems in children;

(b) Develop, in conjunction with the department of health and senior services, a standardized reporting form which shall be used by all school districts in carrying out the requirements of this section;

(c) Design and coordinate appropriate training programs for school district staff who conduct the screening exams. Such training programs may utilize the volunteer services of nonprofit professional organizations which, in the opinion of the commission, are qualified to carry out those responsibilities associated with providing the training required;

(d) Conduct a pilot project to track the results of the eye screenings versus eye examinations conducted based on the reports submitted by school districts to the department of health and senior services;

(e) Develop, in conjunction with the Missouri Optometric Association (MOA) and the Missouri Society of Eye Physicians and Surgeons (MOSEPS), guidelines outlining the benefits and ongoing eye care for children and summarizing the signs and symptoms of vision disorders in order for the guidelines to be made available on the MOA and MOSEPS website. The commission shall also consult with MOA and MOSEPS in the organizations' education and promotion of the guidelines;

(f) By December 31, 2011, the commission shall submit a report to the general assembly detailing the results and findings of the study, including but not limited to the total number of eye screenings and eye examinations, the number of students who received a follow-up examination from an optometrist, ophthalmologist, physician, or doctor of osteopathy and the results of those examinations to determine the effectiveness of eye examinations versus eye screenings.

4. The department of health and senior services shall make a reasonable accommodation for public review and inspection of the data collected as part of the eye screening pilot project provided that no information is revealed that could identify any individual student who was screened or examined.

5. In the event that a parent or legal guardian of a child objects to the child's participation in the eye screening program, the child shall be excused upon receipt by the appropriate school administrator of a written request.

6. The department of health and senior services shall provide staff support to the commission.]

**[191.934. NEWBORN HEARING SCREENING ADVISORY COMMITTEE ESTABLISHED, DUTIES, MEMBERS, COMPENSATION — COMMITTEE TO TERMINATE, WHEN.** — 1. There is hereby established a "Newborn Hearing Screening Advisory Committee".

2. The committee shall advise and assist the department of health and senior services in:

(1) Developing rules, regulations and standards for screening, rescreening and diagnostic audiological assessment;

(2) Developing forms for reporting screening, rescreening and diagnostic audiological assessment results to the surveillance and monitoring system;

(3) Designing a technical assistance program to support facilities implementing the screening program and those conducting rescreening and diagnostic audiological assessment;

(4) Developing educational materials to be provided to families; and

(5) Evaluating program outcomes to increase effectiveness and efficiency. The committee shall also report information concerning the newborn hearing screening program to the state interagency coordinating council, as requested, to ensure

coordination of programs within the state's early intervention system, and to identify and eliminate areas of duplication.

3. The committee shall be composed of the following sixteen members, with no less than two such members being deaf or hard of hearing, appointed by the director of the department of health and senior services:

(1) Three consumers, including one deaf individual who experienced hearing loss in early childhood, one hard-of-hearing individual who experienced hearing loss in early childhood and one parent of a child with a hearing loss;

(2) Two audiologists who have experience in evaluation and intervention of infants and young children;

(3) Two physicians who have experience in the care of infants and young children, one of which shall be a pediatrician;

(4) One representative of an organization with experience in providing early intervention services for children with hearing loss;

(5) One representative of the Missouri school for the deaf;

(6) One representative of a hospital with experience in the care of newborns;

(7) One representative of the Missouri commission for the deaf and hard of hearing;

(8) One representative from each of the departments of health and senior services, elementary and secondary education, mental health, social services and insurance, financial institutions and professional registration.

4. The department of health and senior services member shall chair the first meeting of the committee. At the first meeting, the committee shall elect a chairperson from its membership. The committee shall meet at the call of the chairperson, but not less than four times a year.

5. The department of health and senior services shall provide technical and administrative support services as required by the committee. Such services shall include technical support from individuals qualified to administer infant hearing screening, rescreening and diagnostic audiological assessments.

6. Members of the committee shall receive no compensation for their services as members but shall be reimbursed for expenses incurred as a result of their duties as members of the committee.

7. The committee shall adopt written bylaws to govern its activities.

8. The newborn hearing screening advisory committee shall be terminated on August 28, 2001.]

**[192.632. TASK FORCE CREATED, MEMBERS, DUTIES.** — 1. There is hereby created a "Chronic Kidney Disease Task Force". Unless otherwise stated, members shall be appointed by the director of the department of health and senior services and shall include, but not be limited to, the following members:

(1) Two physicians appointed from lists submitted by the Missouri State Medical Association;

(2) Two nephrologists;

(3) Two family physicians;

(4) Two pathologists;

(5) One member who represents owners or operators of clinical laboratories in the state;

(6) One member who represents a private renal care provider;

(7) One member who has a chronic kidney disease;

(8) One member who represents the state affiliate of the National Kidney Foundation;

(9) One member who represents the Missouri Kidney Program;

- (10) Two members of the house of representatives appointed by the speaker of the house of representatives;
  - (11) Two members of the senate appointed by the president pro tempore of the senate;
  - (12) Additional members may be chosen to represent public health clinics, community health centers, and private health insurers.
2. A chairperson and a vice chairperson shall be elected by the members of the task force.
  3. The chronic kidney task force shall:
    - (1) Develop a plan to educate the public and health care professionals about the advantages and methods of early screening, diagnosis, and treatment of chronic kidney disease and its complications based on kidney disease outcomes, quality initiative clinical practice guidelines for chronic kidney disease, or other medically recognized clinical practice guidelines;
    - (2) Make recommendations on the implementation of a cost-effective plan for early screening, diagnosis, and treatment of chronic kidney disease for the state's population;
    - (3) Identify barriers to adoption of best practices and potential public policy options to address such barriers;
    - (4) Submit a report of its findings and recommendations to the general assembly within one year of its first meeting.
  4. The department of health and senior services shall provide all necessary staff, research, and meeting facilities for the chronic kidney disease task force.]

**[215.261. COMMISSION ON REGULATORY BARRIERS TO AFFORDABLE HOUSING CREATED—PURPOSE—REPORT DUE WHEN, FILED WITH WHOM.** — The "State Commission on Regulatory Barriers to Affordable Housing" is hereby created. The commission shall identify federal, state and local regulatory barriers to affordable housing and recommend means to eliminate such barriers. The commission shall report its findings, conclusions and recommendations in a report to be filed no later than August 31, 1995, and August thirty-first of each year thereafter, with the speaker of the house of representatives, the president pro tempore of the senate and the governor. The commission may also provide a copy of its report to any unit of federal, state or local government.]

**[215.262. MEMBERS OF COMMISSION, APPOINTMENT, QUALIFICATIONS — TERMS — VACANCIES HOW FILLED — REMOVAL OF MEMBERS — EXPENSES.** — The commission shall consist of nine voting members, seven of which shall be appointed by the governor by and with the advice and consent of the senate. The appointed commission members shall include two residential general contractors, two citizens at large, one residential land developer, one residential architect and one residential engineer. The chief administrative officers of the Missouri housing development commission and the Missouri department of economic development shall also be members of the commission and shall retain their memberships on the commission for the duration of their service to the Missouri housing development commission and the Missouri department of economic development. The commission may, in its discretion, establish other ex officio members as it deems prudent, who shall stand appointed and qualified for membership on the commission upon the resolution of the commission. Members of the commission shall serve for terms of three years, but of the first members appointed, three shall serve for a term of one year, two shall serve for a term of two years and two shall serve for a term of three years. Vacancies on the commission shall be filled for the unexpired term in the same manner as original

appointments are made. The commission may remove any of its members for cause after hearing. Members of the commission on regulatory barriers to affordable housing shall receive no compensation for their services, but may be reimbursed for actual and necessary expenses incurred by them in the performance of their duties.]

**[313.001. COMMITTEE ON GAMING AND WAGERING, ESTABLISHED — MEMBERS, COMPENSATION — ACTIVITIES.** — 1. There is established a permanent joint committee of the general assembly to be known as the "Committee on Gaming and Wagering" which shall be composed of five members of the senate, appointed by the president pro tem of the senate and five members of the house of representatives, appointed by the speaker of the house. A majority of the members of the committee shall constitute a quorum. The members shall annually select one of the members to be the chairman and one of the members to be the vice chairman. The general assembly by a majority vote of the elected members may discharge any or all members of the committee and select their successors.

2. The members shall receive no additional compensation, but shall be reimbursed for actual and necessary expenses incurred by them in the performance of their duties.

3. The committee shall be responsible for, but not limited to, legislative review of all state authorized gaming and wagering activities including proposed constitutional and statutory changes or other pertinent information that may affect the integrity of these activities. The committee is authorized to meet and act year round, employ the necessary personnel within the limits of appropriations and to report its findings annually to the general assembly.]

**[338.321. INTERIM COMMITTEE CREATED, PURPOSE, MEMBERS — REPORT.** — 1. The "Missouri Oral Chemotherapy Parity Interim Committee" is hereby created to study the disparity in patient co-payments between orally and intravenously administered chemotherapies, the reasons for the disparity, and the patient benefits in establishing co-payment parity between oral and infused chemotherapy agents. The committee shall consider information on the costs or actuarial analysis associated with the delivery of patient oncology treatments.

2. The Missouri oral chemotherapy parity interim committee shall consist of the following members:

(1) Two members of the senate, appointed by the president pro tempore of the senate;

(2) Two members of the house of representatives, appointed by the speaker of the house of representatives;

(3) One member who is an oncologist or physician with expertise in the practice of oncology licensed in this state under chapter 334;

(4) One member who is an oncology nurse licensed in this state under chapter 335;

(5) One member who is a representative of a Missouri pharmacy benefit management company;

(6) One member from an organization representing licensed pharmacists in this state;

(7) One member from the business community representing businesses on health insurance issues;

(8) One member from an organization representing the leading research-based pharmaceutical and biotechnology companies;

(9) One patient advocate;

(10) One member from the organization representing a majority of hospitals in this state;

(11) One member from a health carrier as such term is defined under section 376.1350;

(12) One member from the organization representing a majority of health carriers in this state, as such term is defined under section 376.1350;

(13) One member from the American Cancer Society; and

(14) One member from an organization representing generic pharmaceutical drug manufacturers.

3. All members, except for the members from the general assembly, shall be appointed by the governor no later than September 1, 2013. The department of insurance, financial institutions and professional registration shall provide assistance to the committee.

4. No later than January 1, 2014, the committee shall submit a report to the governor, the speaker of the house of representatives, the president pro tempore of the senate, and the appropriate legislative committee of the general assembly regarding the results of the study and any legislative recommendations.]

Approved July 13, 2015

SB 68 [SB 68]

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

**Provides that directors of industrial development corporations in St. Francois County may be taxpayers and registered voters in the county**

AN ACT to repeal section 349.045, RSMo, and to enact in lieu thereof one new section relating to boards of directors for industrial development corporations.

SECTION

A. Enacting clause.

349.045. Board of directors, qualifications, — exceptions for industrial development corporations (second, third, fourth class counties, St. Francis County) — appointment, terms — requirements for Lewis County.

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

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

**349.045. BOARD OF DIRECTORS, QUALIFICATIONS, — EXCEPTIONS FOR INDUSTRIAL DEVELOPMENT CORPORATIONS (SECOND, THIRD, FOURTH CLASS COUNTIES, ST. FRANCIS COUNTY) — APPOINTMENT, TERMS — REQUIREMENTS FOR LEWIS COUNTY.** — 1. Except as provided in subsection 2 of this section, the corporation shall have a board of directors in which all the powers of the corporation shall be vested and which shall consist of any number of directors, not less than five, all of whom shall be duly qualified electors of and taxpayers in the county or municipality; except that, for any industrial development corporation formed by any municipality located wholly within any county of the second, third, or fourth classification or any county of the first classification with more than sixty-five thousand but fewer than seventy-five thousand inhabitants, directors may be qualified taxpayers in and registered voters of such county. The directors shall serve as such without compensation except that they shall

be reimbursed for their actual expenses incurred in and about the performance of their duties hereunder. The directors shall be resident taxpayers for at least one year immediately prior to their appointment. No director shall be an officer or employee of the county or municipality. All directors shall be appointed by the chief executive officer of the county or municipality with the advice and consent of a majority of the governing body of the county or municipality, and in all counties, other than a city not within a county and counties with a charter form of government, the appointments shall be made by the county commission and they shall be so appointed that they shall hold office for staggered terms. At the time of the appointment of the first board of directors the governing body of the municipality or county shall divide the directors into three groups containing as nearly equal whole numbers as may be possible. The first term of the directors included in the first group shall be two years, the first term of the directors included in the second group shall be four years, the first term of the directors in the third group shall be six years; provided, that if at the expiration of any term of office of any director a successor thereto shall not have been appointed, then the director whose term of office shall have expired shall continue to hold office until a successor shall be appointed by the chief executive officer of the county or municipality with the advice and consent of a majority of the governing body of the county or municipality. The successors shall be resident taxpayers for at least one year immediately prior to their appointment.

2. A corporation in a county of the third classification without a township form of government and with more than ten thousand four hundred but fewer than ten thousand five hundred inhabitants shall have a board of directors in which all the powers of the corporation shall be vested and which shall consist of a number of directors not less than the number of townships in such county. All directors shall be duly qualified electors of and taxpayers in the county. Each township within the county shall elect one director to the board. Additional directors may be elected to the board to succeed directors appointed to the board as of the effective date of this section if the number of directors on the effective date of this section exceeds the number of townships in the county. The directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in the performance of their duties. The directors shall be resident taxpayers for at least one year immediately prior to their election. No director shall be an officer or employee of the county. Upon the expiration of the term of office of any director appointed to the board prior to the effective date of this section, a director shall be elected to succeed him or her; provided that if at the expiration of any term of office of any director a successor thereto shall not have been elected, then the director whose term of office shall have expired shall continue to hold office until a successor shall be elected. The successors shall be resident taxpayers for at least one year immediately prior to their election.

Approved June 30, 2015

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SB 87 [SS SCS SB 87]

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

**Requires persons who submit petitions for political subdivision audits to reside or own property in the subdivision and allows for signatures to be rescinded**

AN ACT to repeal section 29.230, RSMo, and to enact in lieu thereof one new section relating to audits of political subdivisions.

SECTION

A. Enacting clause.

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29.230. State auditor to audit county offices, when — political subdivisions by petition, requirements, costs — petition audit revolving trust fund created, administration — rescinding of signature, when.

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

**SECTION A. ENACTING CLAUSE.** — Section 29.230, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 29.230, to read as follows:

**29.230. STATE AUDITOR TO AUDIT COUNTY OFFICES, WHEN — POLITICAL SUBDIVISIONS BY PETITION, REQUIREMENTS, COSTS — PETITION AUDIT REVOLVING TRUST FUND CREATED, ADMINISTRATION — RESCINDING OF SIGNATURE, WHEN.** — 1. In every county which does not elect a county auditor, the state auditor shall audit, without cost to the county, at least once during the term for which any county officer is chosen, the accounts of the various county officers supported in whole or in part by public moneys.

2. The state auditor shall audit any political subdivision of the state, including counties having a county auditor, if requested to do so by a petition **submitted by a person who resides or owns real property within the boundaries or area of service of the political subdivision and such petition is submitted to the state auditor within one year from requesting the petition from the state auditor and is signed by the requisite percent of the qualified voters of the political subdivision.** The requisite percent of qualified voters to cause such an audit to be conducted shall be determined as follows:

(1) If the number of qualified voters of the political subdivision determined on the basis of the votes cast in the last gubernatorial election held prior to the filing of the petition is less than one thousand, twenty-five percent of the qualified voters of the political subdivision determined on the basis of the registered voters eligible to vote at the last gubernatorial election held prior to the filing of the petition;

(2) If the number of qualified voters of the political subdivision determined on the basis of the votes cast in the last gubernatorial election held prior to the filing of the petition is one thousand or more but less than five thousand, fifteen percent of the qualified voters of the political subdivision determined on the basis of the votes cast in the last gubernatorial election held prior to the filing of the petition, provided that the number of qualified voters signing such petition is not less than two hundred;

(3) If the number of qualified voters of the political subdivision determined on the basis of the votes cast in the last gubernatorial election held prior to the filing of the petition is five thousand or more but less than fifty thousand, ten percent of the qualified voters of the political subdivision determined on the basis of the votes cast in the last gubernatorial election held prior to the filing of the petition, provided that the number of qualified voters signing such petition is not less than seven hundred fifty;

(4) If the number of qualified voters of the political subdivision determined on the basis of the votes cast in the last gubernatorial election held prior to the filing of the petition is fifty thousand or more, five percent of the qualified voters of the political subdivision determined on the basis of the votes cast in the last gubernatorial election held prior to the filing of the petition, provided that the number of qualified voters signing such petition is not less than five thousand.

3. The political subdivision shall pay the actual cost of audit. The petition that requests an audit of a political subdivision shall state on its face the estimated cost of the audit and that it will be paid by the political subdivision being audited. The estimated cost of the audit shall be provided by the state auditor within sixty days of such request. The costs of the audit may be billed and paid on an interim basis with individual billing periods to be set at the state auditor's discretion. Moneys held by the state on behalf of a political subdivision may be used to offset unpaid billings for audit costs of the political subdivision. All moneys received by the state in payment of the costs of petition audits shall be deposited in the state treasury and credited to the "Petition Audit Revolving Trust Fund" which is hereby created with the state treasurer as custodian. The general assembly may appropriate additional moneys to the fund as it deems

necessary. The state auditor shall administer the fund and approve all disbursements, upon appropriation, from the fund to apply to the costs of performing petition audits. The provisions of section 33.080 to the contrary notwithstanding, money in the fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of any biennium exceeds one million dollars. The amount in the fund which shall lapse is the amount which exceeds one million dollars. No political subdivision shall be audited by petition more than once in any three calendar or fiscal years.

**4. Any person who allegedly signed or has signed the original petition may submit a sworn statement to the state auditor that the person did not sign such petition or that the person wishes to rescind such signature. Such statement shall be required to be made within ten days from submission of the petition to the state auditor. If such statement is timely filed, such signature shall be withdrawn and shall not count in the determination of the number of qualified voters necessary to compel an audit under subsection 2 of this section.**

Approved June 30, 2015

SB 93 [SCS SB 93]

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

**Creates the Campus Free Expression Act to protect free expression on the campuses of public institutions of higher education**

AN ACT to amend chapter 173, RSMo, by adding thereto one new section relating to free speech at public institutions of higher education.

SECTION

A. Enacting clause.  
173.1550. Citation of law — expressive activities protected — outdoor areas deemed traditional public forums, reasonable restrictions — court action authorized, when.

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

**SECTION A. ENACTING CLAUSE.** — Chapter 173, RSMo, is amended by adding thereto one new section, to be known as section 173.1550, to read as follows:

**173.1550. CITATION OF LAW — EXPRESSIVE ACTIVITIES PROTECTED — OUTDOOR AREAS DEEMED TRADITIONAL PUBLIC FORUMS, REASONABLE RESTRICTIONS — COURT ACTION AUTHORIZED, WHEN.** — **1. The provisions of this section shall be known and cited as the "Campus Free Expression Act". Expressive activities protected under the provisions of this section include, but are not limited to, all forms of peaceful assembly, protests, speeches, distribution of literature, carrying signs, and circulating petitions.**

**2. The outdoor areas of campuses of public institutions of higher education in this state shall be deemed traditional public forums. Public institutions of higher education may maintain and enforce reasonable time, place, and manner restrictions in service of a significant institutional interest only when such restrictions employ clear, published, content, and viewpoint-neutral criteria, and provide for ample alternative means of expression. Any such restrictions shall allow for members of the university community to spontaneously and contemporaneously assemble.**

**3. Any person who wishes to engage in noncommercial expressive activity on campus shall be permitted to do so freely, as long as the person's conduct is not unlawful and does**

not materially and substantially disrupt the functioning of the institution subject to the requirements of subsection 2 of this section.

4. Nothing in this section shall be interpreted as limiting the right of student expression elsewhere on campus.

5. The following persons may bring an action in a court of competent jurisdiction to enjoin any violation of this section or to recover compensatory damages, reasonable court costs, and attorney fees:

- (1) The attorney general;
- (2) Persons whose expressive rights were violated through the violation of this section.

6. In an action brought under subsection 5 of this section, if the court finds a violation, the court shall award the aggrieved persons no less than five hundred dollars for the initial violation, plus fifty dollars for each day the violation remains ongoing.

7. A person shall be required to bring suit for violation of this section not later than one year after the day the cause of action accrues. For purposes of calculating the one-year limitation period, each day that the violation persists, and each day that a policy in violation of this section remains in effect, shall constitute a new violation of this section and, therefore, a new day that the cause of action has accrued.

Approved July 14, 2015

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SB 104 [CCS#2 HCS SB 104]

**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 elections**

AN ACT to repeal sections 115.342, 115.348, 115.350, 116.190, 162.481, 162.491, 178.820, RSMo, and sections 162.025 and 162.491 as enacted by house bill no. 63, ninety-eighth general assembly, first regular session, and to enact in lieu thereof seven new sections relating to elections.

**SECTION**

- A. Enacting clause.
- 115.306. Disqualification as candidate for elective public office, when — filing of affidavit, contents — tax delinquency, effect of.
- 115.308. Inapplicability of sections 115.307 to 115.405, when.
- 116.190. Ballot title may be challenged, procedure — who are parties defendant — changes may be made by court — appeal to supreme court, when.
- 162.481. Elections in urban school districts, held when — elections in Springfield, post-2000 census urban school districts, St. Charles County, and Buchanan County.
- 162.491. Directors may be nominated by petition, when — contents of petition, certain districts — no petition required, Buchanan County.
- 178.820. Trustees, election of — subdistricts — redistricting committees — trustee of subdistrict, residency requirements, qualifications — board of trustees, requirements, St. Louis City.
1. Severability clause.
- 115.342. Disqualification for delinquent taxes — affidavit, form — complaints, investigation, notice, payment of taxes.
- 115.348. Finding of guilt or plea under federal laws, disqualification for elective public office.
- 115.350. Conviction or plea under state laws, disqualification for elective public office.
- 162.025. Superintendents ineligible for school board membership.
- 162.491. Directors may be nominated by petition, when — contents of petition, certain districts — no petition required, Buchanan County.

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

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**SECTION A. ENACTING CLAUSE.** — Sections 115.342, 115.348, 115.350, 116.190, 162.481, 162.491, 178.820, RSMo, and sections 162.025 and 162.491 as enacted by house bill no. 63, ninety-eighth general assembly, first regular session, are repealed and seven new sections enacted in lieu thereof, to be known as sections 115.306, 115.308, 116.190, 162.481, 162.491, 178.820, and 1, to read as follows:

**115.306. DISQUALIFICATION AS CANDIDATE FOR ELECTIVE PUBLIC OFFICE, WHEN — FILING OF AFFIDAVIT, CONTENTS — TAX DELINQUENCY, EFFECT OF. — 1.** No person shall qualify as a candidate for elective public office in the state of Missouri who has been found guilty of or pled guilty to a felony or misdemeanor under the federal laws of the United States of America or to a felony under the laws of this state or an offense committed in another state that would be considered a felony in this state.

2. (1) Any person who files as a candidate for election to a public office shall be disqualified from participation in the election for which the candidate has filed if such person is delinquent in the payment of any state income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state.

(2) Each potential candidate for election to a public office shall file an affidavit with the department of revenue and include a copy of the affidavit with the declaration of candidacy required under section 115.349. Such affidavit shall be in substantially the following form:

**AFFIRMATION OF TAX PAYMENTS AND BONDING REQUIREMENTS:**

I hereby declare under penalties of perjury that I am not currently aware of any delinquency in the filing or payment of any state income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or that I am a past or present corporate officer of any fee office that owes any taxes to the state, other than those taxes which may be in dispute. I declare under penalties of perjury that I am not aware of any information that would prohibit me from fulfilling any bonding requirements for the office for which I am filing.

..... Candidate's Signature  
 ..... Printed Name of Candidate

(3) Upon receipt of a complaint alleging a delinquency of the candidate in the filing or payment of any state income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state, the department of revenue shall investigate such potential candidate to verify the claim contained in the complaint. If the department of revenue finds a positive affirmation to be false, the department shall contact the secretary of state, or the election official who accepted such candidate's declaration of candidacy, and the potential candidate. The department shall notify the candidate of the outstanding tax owed and give the candidate thirty days to remit any such outstanding taxes owed which are not the subject of dispute between the department and the candidate. If the candidate fails to remit such amounts in full within thirty days, the candidate shall be disqualified from participating in the current election and barred from refiling for an entire election cycle even if the individual pays all of the outstanding taxes that were the subject of the complaint.

**115.308. INAPPLICABILITY OF SECTIONS 115.307 TO 115.405, WHEN.** — Sections 115.307 to 115.405 shall not apply to candidates for special district offices; township offices in township organization counties; or city, town, and village offices.

**116.190. BALLOT TITLE MAY BE CHALLENGED, PROCEDURE — WHO ARE PARTIES DEFENDANT — CHANGES MAY BE MADE BY COURT — APPEAL TO SUPREME COURT, WHEN.**

— 1. Any citizen who wishes to challenge the official ballot title or the fiscal note prepared for a proposed constitutional amendment submitted by the general assembly, by initiative petition, or by constitutional convention, or for a statutory initiative or referendum measure, may bring an action in the circuit court of Cole County. The action must be brought within ten days after the official ballot title is certified by the secretary of state in accordance with the provisions of this chapter.

2. The secretary of state shall be named as a party defendant in any action challenging the official ballot title prepared by the secretary of state. When the action challenges the fiscal note or the fiscal note summary prepared by the auditor, the state auditor shall also be named as a party defendant. The president pro tem of the senate, the speaker of the house and the sponsor of the measure and the secretary of state shall be the named party defendants in any action challenging the official summary statement, fiscal note or fiscal note summary prepared pursuant to section 116.155.

3. The petition shall state the reason or reasons why the summary statement portion of the official ballot title is insufficient or unfair and shall request a different summary statement portion of the official ballot title. Alternatively, the petition shall state the reasons why the fiscal note or the fiscal note summary portion of the official ballot title is insufficient or unfair and shall request a different fiscal note or fiscal note summary portion of the official ballot title.

4. The action shall be placed at the top of the civil docket. Insofar as the action challenges the summary statement portion of the official ballot title, the court shall consider the petition, hear arguments, and in its decision certify the summary statement portion of the official ballot title to the secretary of state. Insofar as the action challenges the fiscal note or the fiscal note summary portion of the official ballot title, the court shall consider the petition, hear arguments, and in its decision, either certify the fiscal note or the fiscal note summary portion of the official ballot title to the secretary of state or remand the fiscal note or the fiscal note summary to the auditor for preparation of a new fiscal note or fiscal note summary pursuant to the procedures set forth in section 116.175. Any party to the suit may appeal to the supreme court within ten days after a circuit court decision. In making the legal notice to election authorities under section 116.240, and for the purposes of section 116.180, the secretary of state shall certify the language which the court certifies to him.

5. Any action brought under this section that is not fully and finally adjudicated within one hundred eighty days of filing, **and more than fifty-six days prior to election in which the measure is to appear**, including all appeals, shall be extinguished, unless a court extends such period upon a finding of good cause for such extension. Such good cause shall consist only of court-related scheduling issues and shall not include requests for continuance by the parties.

**162.481. ELECTIONS IN URBAN SCHOOL DISTRICTS, HELD WHEN — ELECTIONS IN SPRINGFIELD, POST-2000 CENSUS URBAN SCHOOL DISTRICTS, St. CHARLES COUNTY, AND BUCHANAN COUNTY.** — 1. Except as otherwise provided in this section **and in section 162.492**, all elections of school directors in urban **school** districts shall be held biennially at the same times and places as municipal elections.

2. [In any urban district which includes all or the major part of a city which first obtained a population of more than seventy-five thousand inhabitants by reason of the 1960 federal decennial census, elections of directors shall be held on municipal election days of even-numbered years. The directors of the prior district shall continue as directors of the urban district until their successors are elected as herein provided. On the first Tuesday in April, 1964, four directors shall be elected, two for terms of two years to succeed the two directors of the prior district who were elected in 1960 and two for terms of six years to succeed the two directors of the prior district who were elected in 1961. The successors of these directors shall be elected for terms of six years. On the first Tuesday in April, 1968, two directors shall be elected for terms

to commence on November 5, 1968, and to terminate on the first Tuesday in April, 1974, when their successors shall be elected for terms of six years. No director shall serve more than two consecutive six-year terms after October 13, 1963.

3.] Except as otherwise provided in subsections 3, 4, and 5 of this section, hereafter when a seven-director district becomes an urban **school** district, the directors of the prior seven-director district shall continue as directors of the urban **school** district until the expiration of the terms for which they were elected and until their successors are elected as provided in this subsection. The first biennial school election for directors shall be held in the urban **school** district at the time provided in subsection 1 which is on the date of or subsequent to the expiration of the terms of the directors of the prior district which are first to expire, and directors shall be elected to succeed the directors of the prior district whose terms have expired. If the terms of two directors only have expired, the directors elected at the first biennial school election in the urban **school** district shall be elected for terms of six years. If the terms of four directors have expired, two directors shall be elected for terms of six years and two shall be elected for terms of four years. At the next succeeding biennial election held in the urban **school** district, successors for the remaining directors of the prior seven-director district shall be elected. If only two directors are to be elected they shall be elected for terms of six years each. If four directors are to be elected, two shall be elected for terms of six years and two shall be elected for terms of two years. After seven directors of the urban **school** this subsection, their successors shall be elected for terms of six years.

[4.] **3.** In any school district in [any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification, or any school district which becomes an urban school district by reason of the 2000 federal decennial census] **which a majority of the district is located in any home rule city with more than one hundred fifty-five thousand but fewer than two hundred thousand inhabitants**, elections shall be held annually at the same times and places as general municipal elections for all years where one or more terms expire, and the terms shall be for three years and until their successors are duly elected and qualified for all directors elected on and after August 28, 1998.

**4. For any school district which becomes an urban school district by reason of the 2000 federal decennial census, elections shall be held annually at the same times and places as general municipal elections for all years where one or more terms expire, and the terms shall be for three years and until their successors are duly elected and qualified for all directors elected on and after August 28, 2001.**

5. In any school district in any county with a charter form of government and with more than three hundred thousand but fewer than four hundred fifty thousand inhabitants which becomes an urban school district by reason of the 2010 federal decennial census, elections shall be held annually at the same times and places as general municipal elections for all years where one or more terms expire, and the terms shall be for three years and until their successors are duly elected and qualified for all directors elected on and after April 2, 2012.

**6. In any urban school district in a county of the first classification with more than eighty-three thousand but fewer than ninety-two thousand inhabitants and with a home rule city with more than seventy-six thousand but fewer than ninety-one thousand inhabitants as the county seat, elections shall be held annually at the same times and places as general municipal elections for all years where one or more terms expire, and upon expiration of any term after August 28, 2015, the term of office shall be for three years and until their successors are duly elected and qualified.**

**162.491. DIRECTORS MAY BE NOMINATED BY PETITION, WHEN — CONTENTS OF PETITION, CERTAIN DISTRICTS — NO PETITION REQUIRED, BUCHANAN COUNTY. — 1.** Directors for urban school districts, other than those districts containing the greater part of a city of over one hundred thirty thousand inhabitants, may be nominated by petition to be filed with

the secretary of the board and signed by a number of voters in the district equal to ten percent of the total number of votes cast for the director receiving the highest number of votes cast at the next preceding biennial election, **except as provided in subsection 4 of this section.**

2. This section shall not be construed as providing the sole method of nominating candidates for the office of school director in urban districts which do not contain the greater part of a city of over three hundred thousand inhabitants.

3. A director for any urban school district containing a city of greater than one hundred thirty thousand inhabitants and less than three hundred thousand inhabitants may be nominated as an independent candidate by filing with the secretary of the board a petition signed by five hundred registered voters of such school district.

**4. In any urban school district located in a county of the first classification with more than eighty-three thousand but fewer than ninety-two thousand inhabitants and with a home rule city with more than seventy-six thousand but fewer than ninety-one thousand inhabitants as the county seat, a candidate for director shall file a declaration of candidacy with the secretary of the board and shall not be required to submit a petition.**

**178.820. TRUSTEES, ELECTION OF — SUBDISTRICTS — REDISTRICTING COMMITTEES — TRUSTEE OF SUBDISTRICT, RESIDENCY REQUIREMENTS, QUALIFICATIONS — BOARD OF TRUSTEES, REQUIREMENTS, ST. LOUIS CITY.** — 1. In the organization election, six trustees shall be elected at large throughout the entire proposed district. The two candidates receiving the greatest number of votes shall be elected for terms of six years each, the two receiving the next greatest number of votes for terms of four years each, the two receiving the next greatest number of votes for terms of two years each, and such terms shall be effective until the first Tuesday in April coinciding with or next following such period of years, or until the successors to such trustees have been duly elected and qualified. Thereafter, the trustees shall be elected for terms of six years each.

2. Following the initial election, the board of trustees may, at any duly called meeting, adopt a resolution calling for the formation of a redistricting committee to consider the formation of subdistricts within the community college district from which trustees are thereafter to be elected. Upon adoption of any such resolution, the secretary of the board of trustees shall forward a certified copy thereof to the coordinating board for higher education with the request that a redistricting committee be appointed in order to divide the community college districts into at least two and not more than six subdistricts for the purpose of electing trustees. The redistricting committee shall consist of three residents within the affected district, appointed by the board of trustees of the affected district, plus three additional persons residents within the affected district, appointed by the coordinating board for higher education. Thereafter, the redistricting committee shall meet, organize itself with a chairman and secretary, and proceed with the adoption of a redistricting plan specifying at least two but not more than six subdistricts which are to the extent possible so apportioned on the basis of population that the population of any such subdistrict divided by the number of trustees to be selected therefrom substantially equals the population of any other subdistrict divided by the number of trustees to be selected therefrom. The redistricting plan referred to herein, in lieu of requiring all trustees to be elected from subdistricts, may provide for the election of one or more trustees at large and the remainder from subdistricts, or for the election of all the trustees at large with the requirement that each must reside in a certain subdistrict, so long as in any plan adopted, subdistricts are apportioned as provided above. Notwithstanding the above, the board of trustees of any community college district which contains more than four hundred fifty thousand residents shall, at the first duly called meeting following August 13, 1972, and thereafter within ninety days following the publication of the decennial census figures, adopt a resolution calling for the formation of a redistricting committee; and the redistricting committee shall adopt a redistricting plan specifying the establishment of not less than four nor more than six subdistricts compact and contiguous in territory and apportioned as provided above.

3. In any district which shall contain a city not within a county, if four subdistricts are established, then at least one subdistrict shall be within said city, and if five or six subdistricts are established, then at least two subdistricts shall be within said city.

4. Any person running for election as a trustee of a subdistrict shall be domiciled and a resident therein. Any plan proposed to be adopted must receive approval of a majority of the whole redistricting committee. Upon adoption the redistricting committee shall forward a copy of the plan certified by the secretary to the coordinating board for higher education for its approval or disapproval. The coordinating board for higher education shall approve any redistricting plan in which the population of any subdistrict divided by the number of trustees to be selected therefrom substantially equals the population of any other subdistrict divided by the number of trustees to be elected therefrom. Upon approval, the redistricting plan shall become effective and all trustees elected thereafter shall be required to be elected from subdistricts in which they are resident. If the plan is not approved, then it shall be returned to the redistricting committee for revision and resubmission. Until approval of a plan by the coordinating board for higher education, trustees of a district shall continue to run at large. Upon approval of any plan, the board of trustees shall determine by resolution the assignment of trustees to subdistricts. Any such assignment shall not affect the term of office of any such trustee. Once a district has been divided into subdistricts in accordance with the provisions hereof, it shall remain so divided until one year following the publication of the decennial census figures, by which date a new plan shall have been adopted or the trustees shall again be required to run in the district at large; provided, however, that if during the period between publications of decennial census figures the area of a district is increased or decreased, a new plan shall be adopted within one year thereafter or the trustees shall be required to run in the district at large. No member of the redistricting committee shall serve on the board of trustees for a period of six years following his service on the redistricting committee.

5. Candidates for the office of trustee shall be citizens of the United States, at least twenty-one years of age, who have been voters of the district for at least one whole year preceding the election, and if trustees are elected other than at large they shall be voters of the subdistricts for at least one whole year next preceding the election. All candidates for the first board of a district shall file their declaration of candidacy with the coordinating board for higher education.

**6. Notwithstanding the provisions of this section or any other law to the contrary, the board of trustees of the community college district in any district that contains a city not within a county shall be composed of seven members, six of whom shall each be elected to a six-year term, and one at-large member who shall be appointed to a six-year term by the coordinating board for higher education, beginning with the board election occurring immediately after August 28, 2015, subject to the following procedures:**

**(1) The appointed member shall be a citizen of the United States, at least twenty-one years of age, and a registered voter of the district for at least one year preceding the appointment;**

**(2) No member, elected or appointed, shall be an employee of such community college district;**

**(3) Whenever a vacancy occurs in the appointed member's seat due to death, resignation, removal from the district, or by operation of law or otherwise, the coordinating board for higher education shall, in a like manner, appoint a competent person to fill such vacancy and shall communicate his or her action to the board secretary of the district. Such appointed member shall hold office for the remainder of the unexpired term**

**(4) If a board member is found by unanimous vote of the other board members to have moved his or her residence to a district other than the district from which such board member was appointed or elected, or to have violated a duly promulgated bylaw of the district, then the office of such board member shall be vacant;**

(5) The board shall have the power to make such bylaws or ordinances, rules, and regulations as it may judge most expedient for the accomplishment of the trust reposed in it, for the government of its officers and employees, to secure its accountability, and to delegate its authority as it may deem necessary to such officers and employees or to committees appointed by the board;

(6) Except as specifically provided in this section, the appointment or election and term of office for members of the board, and all other duties and responsibilities of the board, shall comply with the provisions of state law regarding trustees of community college districts.

**SECTION 1. SEVERABILITY CLAUSE.** — If any provision of this act or the application thereof to anyone or to any circumstance is held invalid, the remainder of those sections and the application of such provisions to others or other circumstances shall not be affected thereby.

**[115.342. DISQUALIFICATION FOR DELINQUENT TAXES — AFFIDAVIT, FORM — COMPLAINTS, INVESTIGATION, NOTICE, PAYMENT OF TAXES.** — 1. Any person who files as a candidate for election to a public office shall be disqualified from participation in the election for which the candidate has filed if such person is delinquent in the payment of any state income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state.

2. Each potential candidate for election to a public office shall file an affidavit with the department of revenue and include a copy of the affidavit with the declaration of candidacy required under section 115.349. Such affidavit shall be in substantially the following form:

**AFFIRMATION OF TAX PAYMENTS AND BONDING REQUIREMENTS:**  
I hereby declare under penalties of perjury that I am not currently aware of any delinquency in the filing or payment of any state income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or that I am a past or present corporate officer of any fee office that owes any taxes to the state, other than those taxes which may be in dispute. I declare under penalties of perjury that I am not aware of any information that would prohibit me from fulfilling any bonding requirements for the office for which I am filing.

..... Candidate's Signature

..... Printed Name of Candidate.

3. Upon receipt of a complaint alleging a delinquency of the candidate in the filing or payment of any state income taxes, personal property taxes, municipal taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state, the department of revenue shall investigate such potential candidate to verify the claim contained in the complaint. If the department of revenue finds a positive affirmation to be false, the department shall contact the secretary of state, or the election official who accepted such candidate's declaration of candidacy, and the potential candidate. The department shall notify the candidate of the outstanding tax owed and give the candidate thirty days to remit any such outstanding taxes owed which are not the subject of dispute between the department and the candidate. If the candidate fails to remit such amounts in full within thirty days, the candidate shall be disqualified from participating in the current election and barred from refile for an

entire election cycle even if the individual pays all of the outstanding taxes that were the subject of the complaint.]

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

**[115.350. CONVICTION OR PLEA UNDER STATE LAWS, DISQUALIFICATION FOR ELECTIVE PUBLIC OFFICE.** — No person shall qualify as a candidate for elective public office in the state of Missouri who has been convicted of or found guilty of or pled guilty to a felony under the laws of this state.]

**[162.025. SUPERINTENDENTS INELIGIBLE FOR SCHOOL BOARD MEMBERSHIP.** — No person shall be a candidate for a member or director of the school board in any district in this state if such person has previously been employed by the district as the district's superintendent.]

**[162.491. DIRECTORS MAY BE NOMINATED BY PETITION, WHEN — CONTENTS OF PETITION, CERTAIN DISTRICTS — NO PETITION REQUIRED, BUCHANAN COUNTY.** — 1. Directors for urban school districts, other than those districts containing the greater part of a city of over one hundred thirty thousand inhabitants, may be nominated by petition to be filed with the secretary of the board and signed by a number of voters in the district equal to ten percent of the total number of votes cast for the director receiving the highest number of votes cast at the next preceding biennial election, **except as provided in subsection 4 of this section.**

2. This section shall not be construed as providing the sole method of nominating candidates for the office of school director in urban districts which do not contain the greater part of a city of over three hundred thousand inhabitants.

3. A director for any urban school district containing a city of greater than one hundred thirty thousand inhabitants and less than three hundred thousand inhabitants may be nominated as an independent candidate by filing with the secretary of the board a petition signed by five hundred registered voters of such school district.

**4. In any urban school district located in a home rule city with more than seventy-one thousand but fewer than seventy- nine thousand inhabitants, a candidate for director shall file a declaration of candidacy with the secretary of the board and shall not be required to submit a petition.]**

Approved July 14, 2015

SB 107 [SCS SB 107]

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

**Authorizes certain boards and commissions under the Division of Professional Registration to issue opinions for educational purposes and modifies laws relating to speech-language pathologists and audiologists**

AN ACT to repeal sections 345.015, 345.020, 345.022, 345.025, 345.040, 345.050, 345.051, 345.065, and 345.080, RSMo, and to enact in lieu thereof nine new sections relating to professions regulated under the division of professional registration.

## SECTION

- A. Enacting clause.
- 324.023. Issuance of opinions on qualifications, functions, or duties of licensed professions by regulatory boards or commissions.
- 345.015. Definitions.
- 345.020. License or registration required to practice.
- 345.025. Persons exempted from the provisions of this chapter.
- 345.040. Board to have seal, effect of.
- 345.050. Requirements to be met for license.
- 345.051. Renewal of license or registration, when — form, content — mailing of form, authorized — failure to mail or to receive form, effect on licensure — or registration.
- 345.065. Denial, revocation or suspension of license or registration, grounds for, alternatives — criminal penalties for violation of chapter.
- 345.080. Advisory commission for speech-language pathologists and audiologists established — members, terms, appointment, duties, removal, expenses, compensation — meetings, notice of — quorum — staff.
- 345.022. Provisional license, fee, renewal.

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

**SECTION A. ENACTING CLAUSE.** — Sections 345.015, 345.020, 345.022, 345.025, 345.040, 345.050, 345.051, 345.065, and 345.080, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 324.023, 345.015, 345.020, 345.025, 345.040, 345.050, 345.051, 345.065, and 345.080, to read as follows:

**324.023. ISSUANCE OF OPINIONS ON QUALIFICATIONS, FUNCTIONS, OR DUTIES OF LICENSED PROFESSIONS BY REGULATORY BOARDS OR COMMISSIONS.** — **1. Notwithstanding any law to the contrary, any board or commission established under chapters 330, 331, 332, 334, 335, 336, 337, 338, 340, and 345 may, at its discretion, issue oral or written opinions addressing topics relating to the qualifications, functions, or duties of any profession licensed by the specific board or commission issuing such guidance. Any such opinion is for educational purposes only, is in no way binding on the licensees of the respective board or commission, and cannot be used as the basis for any discipline against any licensee under chapters 330, 331, 332, 334, 335, 336, 337, 338, 340, and 345. No board or commission may address topics relating to the qualifications, functions, or duties of any profession licensed by a different board or commission.**

**2. The recipient of an opinion given under this section shall be informed that the opinion is for educational purposes only, is in no way binding on the licensees of the board, and cannot be used as the basis for any discipline against any licensee under chapters 330, 331, 332, 334, 335, 336, 337, 338, 340, and 345.**

**345.015. DEFINITIONS.** — As used in sections 345.010 to 345.080, the following terms mean:

(1) "Audiologist", a person who is licensed as an audiologist pursuant to sections 345.010 to 345.080 to practice audiology;

(2) "Audiology aide", a person who is registered as an audiology aide by the board, who does not act independently but works under the direction and supervision of a licensed audiologist. Such person assists the audiologist with activities which require an understanding of audiology but do not require formal training in the relevant academics. To be eligible for registration by the board, each applicant shall submit a registration fee, be of good moral and ethical character; and:

(a) Be at least eighteen years of age;

(b) Furnish evidence of the person's educational qualifications which shall be at a minimum:

a. Certification of graduation from an accredited high school or its equivalent; and

b. On-the-job training;

(c) Be employed in a setting in which direct and indirect supervision are provided on a regular and systematic basis by a licensed audiologist.

However, the aide shall not administer or interpret hearing screening or diagnostic tests, fit or dispense hearing instruments, make ear impressions, make diagnostic statements, determine case selection, present written reports to anyone other than the supervisor without the signature of the supervisor, make referrals to other professionals or agencies, use a title other than [speech-language pathology aide or clinical] audiology aide, develop or modify treatment plans, discharge clients from treatment or terminate treatment, disclose clinical information, either orally or in writing, to anyone other than the supervising [speech-language pathologist/audiologist] **audiologist**, or perform any procedure for which he or she is not qualified, has not been adequately trained or both;

(3) "Board", the state board of registration for the healing arts;

(4) ["Clinical fellowship", the supervised professional employment period following completion of the academic and practicum requirements of an accredited training program as defined in sections 345.010 to 345.080;

(5) "Commission", the advisory commission for speech-language pathologists and audiologists;

[(6)] (5) "Hearing instrument" or "hearing aid", any wearable device or instrument designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, including ear molds, but excluding batteries, cords, receivers and repairs;

[(7)] (6) "Person", any individual, organization, or corporate body, except that only individuals may be licensed pursuant to sections 345.010 to 345.080;

[(8)] (7) "Practice of audiology":

(a) The application of accepted audiologic principles, methods and procedures for the measurement, testing, interpretation, appraisal and prediction related to disorders of the auditory system, balance system or related structures and systems;

(b) Provides consultation[, ] or counseling to the patient, client, student, their family or interested parties;

(c) Provides academic, social and medical referrals when appropriate;

(d) Provides for establishing goals, implementing strategies, methods and techniques, for habilitation, rehabilitation or aural rehabilitation, related to disorders of the auditory system, balance system or related structures and systems;

(e) Provides for involvement in related research, teaching or public education;

(f) Provides for rendering of services or participates in the planning, directing or conducting of programs which are designed to modify audition, communicative, balance or cognitive disorder, which may involve speech and language or education issues;

(g) Provides and interprets behavioral and neurophysiologic measurements of auditory balance, cognitive processing and related functions, including intraoperative monitoring;

(h) Provides involvement in any tasks, procedures, acts or practices that are necessary for evaluation of audition, hearing, training in the use of amplification or assistive listening devices;

(i) Provides selection, assessment, fitting, programming, and dispensing of hearing instruments, assistive listening devices, and other amplification systems;

(j) Provides for taking impressions of the ear, making custom ear molds, ear plugs, swim molds and industrial noise protectors;

(k) Provides assessment of external ear and cerumen management;

(l) Provides advising, fitting, mapping assessment of implantable devices such as cochlear or auditory brain stem devices;

(m) Provides information in noise control and hearing conservation including education, equipment selection, equipment calibration, site evaluation and employee evaluation;

(n) Provides performing basic speech-language screening test;

- (o) Provides involvement in social aspects of communication, including challenging behavior and ineffective social skills, lack of communication opportunities;
  - (p) Provides support and training of family members and other communication partners for the individual with auditory balance, cognitive and communication disorders;
  - (q) Provides aural rehabilitation and related services to individuals with hearing loss and their families;
  - (r) Evaluates, collaborates and manages audition problems in the assessment of the central auditory processing disorders and providing intervention for individuals with central auditory processing disorders;
  - (s) Develops and manages academic and clinical problems in communication sciences and disorders;
  - (t) Conducts, disseminates and applies research in communication sciences and disorders;
- [9] **(8)** "Practice of speech-language pathology":
- (a) Provides screening, identification, assessment, diagnosis, treatment, intervention, including but not limited to prevention, restoration, amelioration and compensation, and follow-up services for disorders of:
    - a. Speech: articulation, fluency, voice, including respiration, phonation and resonance;
    - b. Language, involving the parameters of phonology, morphology, syntax, semantics and pragmatic; and including disorders of receptive and expressive communication in oral, written, graphic and manual modalities;
    - c. Oral, pharyngeal, cervical esophageal and related functions, such as dysphagia, including disorders of swallowing and oral functions for feeding; orofacial myofunctional disorders;
    - d. Cognitive aspects of communication, including communication disability and other functional disabilities associated with cognitive impairment;
    - e. Social aspects of communication, including challenging behavior, ineffective social skills, lack of communication opportunities;
  - (b) Provides consultation and counseling and makes referrals when appropriate;
  - (c) Trains and supports family members and other communication partners of individuals with speech, voice, language, communication and swallowing disabilities;
  - (d) Develops and establishes effective augmentative and alternative communication techniques and strategies, including selecting, prescribing and dispensing of augmentative aids and devices; and the training of individuals, their families and other communication partners in their use;
  - (e) Selects, fits and establishes effective use of appropriate prosthetic/adaptive devices for speaking and swallowing, such as tracheoesophageal valves, electrolarynges, or speaking valves;
  - (f) Uses instrumental technology to diagnose and treat disorders of communication and swallowing, such as videofluoroscopy, nasendoscopy, ultrasonography and stroboscopy;
  - (g) Provides aural rehabilitative and related counseling services to individuals with hearing loss and to their families;
  - (h) Collaborates in the assessment of central auditory processing disorders in cases in which there is evidence of speech, language or other cognitive communication disorders; provides intervention for individuals with central auditory processing disorders;
  - (i) Conducts pure-tone air conduction hearing screening and screening tympanometry for the purpose of the initial identification or referral;
  - (j) Enhances speech and language proficiency and communication effectiveness, including but not limited to accent reduction, collaboration with teachers of English as a second language and improvement of voice, performance and singing;
  - (k) Trains and supervises support personnel;
  - (l) Develops and manages academic and clinical programs in communication sciences and disorders;
  - (m) Conducts, disseminates and applies research in communication sciences and disorders;
  - (n) Measures outcomes of treatment and conducts continuous evaluation of the effectiveness of practices and programs to improve and maintain quality of services;
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[10] (9) "Speech-language pathologist", a person who is licensed as a speech-language pathologist pursuant to sections 345.010 to 345.080; who engages in the practice of speech-language pathology as defined in sections 345.010 to 345.080;

[11] (10) "Speech-language pathology aide", a person who is registered as a speech-language aide by the board, who does not act independently but works under the direction and supervision of a licensed speech-language pathologist. Such person assists the speech-language pathologist with activities which require an understanding of speech-language pathology but do not require formal training in the relevant academics. To be eligible for registration by the board, each applicant shall submit a registration fee, be of good moral and ethical character; and:

(a) Be at least eighteen years of age;

(b) Furnish evidence of the person's educational qualifications which shall be at a minimum:

a. Certification of graduation from an accredited high school or its equivalent; and

b. On-the-job training;

(c) Be employed in a setting in which direct and indirect supervision is provided on a regular and systematic basis by a licensed speech-language pathologist. However, the aide shall not administer or interpret hearing screening or diagnostic tests, fit or dispense hearing instruments, make ear impressions, make diagnostic statements, determine case selection, present written reports to anyone other than the supervisor without the signature of the supervisor, make referrals to other professionals or agencies, use a title other than speech-language pathology aide [or clinical audiology aide], develop or modify treatment plans, discharge clients from treatment or terminate treatment, disclose clinical information, either orally or in writing, to anyone other than the supervising speech-language [pathologist/audiologist] **pathologist**, or perform any procedure for which he or she is not qualified, has not been adequately trained or both;

[12] (11) "Speech-language pathology assistant", a person who is registered as a speech-language pathology assistant by the board, who does not act independently but works under the direction and supervision of a licensed speech-language pathologist **practicing for at least one year or speech-language pathologist practicing under subdivisions (1) or (6) of subsection 1 of section 345.025 for at least one year** and whose activities require both academic and practical training in the field of speech-language pathology although less training than those established by sections 345.010 to 345.080 as necessary for licensing as a speech-language pathologist. To be eligible for registration by the board, each applicant shall submit the registration fee, **supervising speech-language pathologist information if employment is confirmed, if not such information shall be provided after registration**, be of good moral character and furnish evidence of the person's educational qualifications which meet the following:

(a) Hold a bachelor's level degree [in the field of speech-language pathology] from an institution accredited or approved by a regional accrediting body recognized by the United States Department of Education or its equivalent; and

(b) Submit official transcripts from one or more accredited colleges or universities presenting evidence of the completion of bachelor's level course work and [clinical practicum] requirements [equivalent to that required or approved by a regional accrediting body recognized by the United States Department of Education or its equivalent] **in the field of speech-language pathology as established by the board through rules and regulations;**

(c) **Submit proof of completion of the number and type of clinical hours as established by the board through rules and regulations.**

**345.020. LICENSE OR REGISTRATION REQUIRED TO PRACTICE.** — 1. Licensure or registration shall be granted in either speech-language pathology or audiology independently. A person may be licensed or registered in both areas if the person is qualified. Each licensed or registered person shall display the license or certificate prominently in the person's place of practice.

2. No person shall practice or hold himself or herself out as being able to practice speech-language pathology or audiology in this state unless the person is licensed in accordance with the provisions of sections 345.010 to 345.080. Nothing in sections 345.010 to 345.080, however, shall be construed to prevent a qualified person licensed in this state under any other law from engaging in the profession for which the person is licensed, and a licensed physician or surgeon may practice speech-language pathology or audiology without being licensed in accordance with the provisions of sections 345.010 to 345.080.

3. No person shall hold himself or herself out as being a speech-language pathologist in this state unless the person is licensed as provided in sections 345.010 to 345.080. Any person who, in any manner, represents himself or herself as a speech-language pathologist or who uses in connection with such person's name the words or letters: "speech-language pathologist", "speech pathologist", "speech therapy", "speech therapist", "speech clinic", "speech clinician", "S.L.P.", "language specialist", "logopedist" or any other letters, words, abbreviations or insignia, indicating or implying that the person is a speech-language pathologist without a valid existing license is guilty of a class B misdemeanor.

4. No person shall hold himself or herself out as being an audiologist in this state unless the person is licensed as provided in sections 345.010 to 345.080. Any person who, in any manner, represents himself or herself as an audiologist or who uses in connection with such person's name the words: "audiology", "audiologist", "audiological", "hearing clinic", "hearing clinician", "hearing therapist" or any other letters, words, abbreviations or insignia, indicating or implying that the person is an audiologist without a valid existing license is guilty of a class B misdemeanor.

5. No person shall hold himself or herself out as being a speech-language pathology assistant or aide or audiology aide in this state unless the person is registered as provided in sections 345.010 to 345.080.

6. Nothing in sections 345.010 to 345.080 shall prohibit a corporation, partnership, trust, association, or other like organization from engaging in the business of speech-language pathology or audiology without licensure if it employs licensed natural persons in the direct practice of speech-language pathology or audiology. [Any such corporation, partnership, trust, association, or other like organization shall also file with the board a statement, on a form approved by the board, that it submits itself to the rules and regulations of the board and the provisions of sections 345.010 to 345.080 which the board shall deem applicable to it.]

**345.025. PERSONS EXEMPTED FROM THE PROVISIONS OF THIS CHAPTER.** — 1. The provisions of sections 345.010 to 345.080 do not apply to:

(1) The activities, services, and the use of an official title on the part of a person in the employ of a federal agency insofar as such services are part of the duties of the person's office or position with such agency;

(2) The activities and services of certified teachers of the deaf;

(3) The activities and services of a student in speech-language pathology or audiology pursuing a course of study at a university or college that has been approved by its regional accrediting association, or working in a recognized training center, if these activities and services constitute a part of the person's course of study supervised by a licensed speech-language pathologist or audiologist as provided in section 345.050;

(4) The activities and services of physicians and surgeons licensed pursuant to chapter 334;

(5) Audiometric technicians who are certified by the council for accreditation of occupational hearing conservationists when conducting pure tone air conduction audiometric tests for purposes of industrial hearing conservation and comply with requirements of the federal Occupational Safety and Health Administration;

(6) A person who holds a current valid certificate as a speech-language pathologist issued **before January 1, 2016**, by the Missouri department of elementary and secondary education and who is an employee of a public school while providing speech-language pathology services in such school system;

**(7) Any person completing the required number and type of clinical hours required by paragraph (c) of subdivision (11) of section 345.015 as long as such person is under the direct supervision of a licensed speech-language pathologist and has not completed more than the number of clinical hours required by rule.**

2. No one shall be exempt pursuant to subdivision (1) or (6) of subsection 1 of this section if the person does any work as a speech-language pathologist or audiologist outside of the exempted areas outlined in this section for which a fee or compensation may be paid by the recipient of the service. When college or university clinics charge a fee, supervisors of student clinicians shall be licensed.

**345.040. BOARD TO HAVE SEAL, EFFECT OF.** — The board shall adopt a seal by which it shall authenticate its proceedings. Copies of its proceedings, records, and acts, when signed by the [secretary] **executive director** and authenticated by the seal, shall be prima facie evidence in all courts of this state.

**345.050. REQUIREMENTS TO BE MET FOR LICENSE.** — 1. To be eligible for licensure by the board by examination, each applicant shall submit the application fee and shall furnish evidence of such person's good moral and ethical character, current competence and shall:

(1) Hold a master's or a doctoral degree from a program accredited by the Council on Academic Accreditation of the American Speech-Language-Hearing Association or other accrediting agency approved by the board in the area in which licensure is sought;

(2) Submit official transcripts from one or more accredited colleges or universities presenting evidence of the completion of course work and clinical practicum requirements equivalent to that required by the Council on Academic Accreditation of the American Speech-Language-Hearing Association or other accrediting agency approved by the board; **and**

(3) [Present written evidence of completion of clinical fellowship as defined in subdivision (4) of section 345.015 from supervisors. The experience required by this subdivision shall follow the completion of the requirements of subdivisions (1) and (2) of this subsection. This period of employment shall be under the direct supervision of a person who is licensed by the state of Missouri in the profession in which the applicant seeks to be licensed. Persons applying with an audiology clinical doctoral degree are exempt from this provision;

(4)] Pass an examination promulgated or approved by the board. The board shall determine the subject and scope of the examinations.

2. To be eligible for licensure by the board without examination, each applicant shall make application on forms prescribed by the board, submit the application fee and shall be of good moral and ethical character, submit an activity statement and meet one of the following requirements:

(1) The board shall issue a license to any speech-language pathologist or audiologist who is licensed in another jurisdiction and who has had no violations, suspension or revocations of a license to practice speech-language pathology or audiology in any jurisdiction; provided that, such person is licensed in a jurisdiction whose requirements are substantially equal to, or greater than, Missouri at the time the applicant applies for licensure; or

(2) Hold the certificate of clinical competence issued by the American Speech-Language-Hearing Association in the area in which licensure is sought.

**345.051. RENEWAL OF LICENSE OR REGISTRATION, WHEN — FORM, CONTENT — MAILING OF FORM, AUTHORIZED — FAILURE TO MAIL OR TO RECEIVE FORM, EFFECT ON LICENSURE — OR REGISTRATION.** — 1. Every person licensed or registered pursuant to the provisions of sections 345.010 to 345.080 shall renew the license **or registration** on or before the renewal date. Such renewal date shall be determined by the board. The application shall be made on a form furnished by the board. The application shall include, but not be limited to, disclosure of the applicant's full name and the applicant's office and residence addresses and the

date and number of the applicant's license **or registration**, all final disciplinary actions taken against the applicant by any speech-language-hearing association or society, state, territory[,] **or** federal agency or country and information concerning the applicant's current physical and mental fitness to practice [as a speech-language pathologist or audiologist].

2. A blank form for application for license **or registration** renewal shall be mailed to each person licensed **or registered** in this state at the person's last known office or residence address. The failure to mail the form of application or the failure to receive it does not, however, relieve any person of the duty to renew the license **or registration** and pay the fee required by sections 345.010 to 345.080 for failure to renew the license **or registration**.

3. An applicant for renewal of a license [pursuant to] **or registration under** this section shall:

(1) Submit an amount established by the board; and

(2) Meet any other requirements the board establishes as conditions for license **or registration** renewal, including the demonstration of continued competence to practice the profession for which the license **or registration** is issued. A requirement of continued competence may include, but is not limited to, continuing education, examination, self-evaluation, peer review, performance appraisal or practical simulation.

4. If a license **or registration** is suspended pursuant to section 345.065, the license **or registration** expires on the expiration date as established by the board for all licenses **and registrations** issued pursuant to sections 345.010 to 345.080. Such license **or registration** may be renewed but does not entitle the licensee to engage in the licensed **or registered** activity or in any other conduct or activity which violates the order of judgment by which the license **or registration** was suspended until such license **or registration** has been reinstated.

5. If a license **or registration** is revoked on disciplinary grounds pursuant to section 345.065, the license **or registration** expires on the expiration date as established by the board for all licenses **and registrations** issued pursuant to sections 345.010 to 345.080. Such license **or registration** may not be renewed. If a license **or registration** is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee that is equal to the renewal fee in effect on the last regular renewal date immediately preceding the date of reinstatement plus any late fee established by the board.

**345.065. DENIAL, REVOCATION OR SUSPENSION OF LICENSE OR REGISTRATION, GROUNDS FOR, ALTERNATIVES — CRIMINAL PENALTIES FOR VIOLATION OF CHAPTER. —**

1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to sections 345.010 to 345.080 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license **or registration** which is subject to probation, restriction or limitation to an applicant for licensure **or registration** for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license **or registration** to an applicant for licensure **or registration**, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license **or registration** seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority,

permit or license required by sections 345.010 to 345.080 or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 345.010 to 345.080;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 345.010 to 345.080, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to sections 345.010 to 345.080 or in obtaining permission to take any examination given or required pursuant to sections 345.010 to 345.080;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by sections 345.010 to 345.080;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 345.010 to 345.080, or of any lawful rule or regulation adopted pursuant to sections 345.010 to 345.080;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 345.010 to 345.080 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 345.010 to 345.080 who is not registered and currently eligible to practice pursuant to sections 345.010 to 345.080;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by sections 345.010 to 345.080 or any rule promulgated pursuant to sections 345.010 to 345.080;

(13) Violation of any professional trust or confidence;

(14) Fraudulently or deceptively using a license, provisional license or registration;

(15) Altering a license, provisional license or registration;

(16) Willfully making or filing a false report or record in the practice of speech-language pathology or audiology;

(17) Using or promoting or causing the use of any misleading, deceiving, improbable or untruthful advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or any other representation;

(18) Falsely representing the use or availability of services or advice of a physician;

(19) Misrepresenting the applicant, licensee or holder by using the word doctor or any similar word, abbreviation or symbol if the use is not accurate or if the degree was not obtained from a regionally accredited institution;

(20) Committing any act of dishonorable, immoral or unprofessional conduct while engaging in the practice of speech-language pathology or audiology;

(21) Providing services or promoting the sale of devices, appliances or products to a person who cannot reasonably be expected to benefit from such services, devices, appliances or products.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend, for a period not to exceed three years, **or restrict or limit the person's ability to practice for an indefinite period of time**, or revoke the license or registration.

4. The board may apply for relief by injunction, without bond, to restrain any person, partnership or corporation from engaging in any act or practice which constitutes an offense pursuant to sections 345.010 to 345.080. The board does not need to allege and prove that there is no adequate remedy at law to obtain an injunction. The members of the board and the advisory commission shall not be individually liable for applying for such relief.

**345.080. ADVISORY COMMISSION FOR SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS ESTABLISHED — MEMBERS, TERMS, APPOINTMENT, DUTIES, REMOVAL, EXPENSES, COMPENSATION — MEETINGS, NOTICE OF — QUORUM — STAFF.** — 1. There is hereby established an "Advisory Commission for Speech-Language Pathologists and Audiologists" which shall guide, advise and make recommendations to the board. The commission shall approve the examination required by section 345.050, and shall assist the board in carrying out the provisions of sections 345.010 to 345.075.

2. After August 28, 1997, the commission shall consist of seven members, one of whom shall be a voting public member, appointed by the board of registration for the healing arts. Each member shall be a citizen of the United States and a resident of this state. Three members of the commission shall be licensed speech-language pathologists and three members of the commission shall be licensed audiologists. The public member shall be at the time of appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 345.010 to 345.080 or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 345.010 to 345.080, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 345.010 to 345.080. Members shall be appointed to serve three-year terms, except as provided in this subsection. Each member of the advisory commission for [speech] **speech-language** pathologists and [clinical] audiologists on August 28, 1995, shall become a member of the advisory commission for speech-language pathologists and [clinical] audiologists and shall continue to serve until the term for which the member was appointed expires. Each member of the advisory commission for speech-language pathologists and [clinical] audiologists on August 28, 1997, shall become a member of the advisory commission for speech-language pathologists and audiologists and shall continue to serve until the term for which the member was appointed expires. The first public member appointed pursuant to this subsection shall be appointed for a two-year term and the one additional member appointed pursuant to this subsection shall be appointed for a full three-year term. No person [shall be eligible for reappointment] who has served as a member of the advisory commission for [speech] **speech-language** pathologists and audiologists [or as a member of the commission as established on August 28, 1995, for a total of six years] **for two consecutive terms may be reappointed to the advisory commission until a lapse of at least two years has occurred following the completion of his or her two consecutive terms.** The membership of the commission shall reflect the differences in levels of education, work experience and geographic residence. For a licensed speech-language pathologist member, the president of the Missouri Speech-Language-Hearing Association in office at the time, and for

a licensed audiologist member, the president of the Missouri Academy of Audiologists in office at the time, in consultation with the president of the Missouri Speech-Language-Hearing Association, shall, at least ninety days prior to the expiration of a term of a commission member, other than the public member, or as soon as feasible after a vacancy on the commission otherwise occurs, submit to the **executive** director of the [division of professional registration] **board** a list of five persons qualified and willing to fill the vacancy in question, with the request and recommendation that the board of registration for the healing arts appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Speech-Language-Hearing Association or the president of the Missouri Academy of Audiologists in office at the time shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

3. Notwithstanding any other provision of law to the contrary, any appointed member of the commission shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for commission business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment. All staff for the commission shall be provided by the board of registration for the healing arts.

4. The commission shall hold an annual meeting at which it shall elect from its membership a chairman and secretary. The commission may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting shall be given to each member at least ten days prior to the date of the meeting. A quorum of the commission shall consist of a majority of its members.

5. The board of registration for the healing arts may remove a commission member for misconduct, incompetency or neglect of the member's official duties after giving the member written notice of the charges against such member and an opportunity to be heard thereon.

**[345.022. PROVISIONAL LICENSE, FEE, RENEWAL. —** 1. Any person in the person's clinical fellowship as defined in sections 345.010 to 345.080 shall hold a provisional license to practice speech-language pathology or audiology. The board may issue a provisional license to an applicant who:

(1) Has met the requirements for practicum and academic requirements from an accredited training program as defined in sections 345.010 to 345.080;

(2) Submits an application to the board on a form prescribed by the board. Such form shall include a plan for the content and supervision of the clinical fellowship, as well as evidence of good moral and ethical character; and

(3) Submits to the board an application fee, as set by the board, for the provisional license.

2. A provisional license is effective for one year and may be extended for an additional twelve months only for purposes of completing the postgraduate clinical experience portion of the clinical fellowship; provided that, the applicant has passed the national examination and shall hold a master's degree from an approved training program in his or her area of application.

3. Within twelve months of issuance of the provisional license, the applicant shall pass an examination promulgated or approved by the board.

4. Within twelve months of issuance of a provisional license, the applicant shall complete the master's or doctoral degree from a program accredited by the Council on Academic Accreditation of the American Speech-Language-Hearing Association or other accrediting agency approved by the board in the area in which licensure is sought.]

SB 116 [SB 116]

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

**Creates an exemption from the proof of residency and domicile for school registration for students whose parents are stationed out of state**

AN ACT to repeal section 167.020, RSMo, and to enact in lieu thereof one new section relating to school district residency for children of certain military members, with existing penalty provisions.

**SECTION**

A. Enacting clause.

167.020. Registration requirements — residency — homeless child or youth defined — recovery of costs, when — records to be requested, provided, when.

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

**SECTION A. ENACTING CLAUSE.** — Section 167.020, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 167.020, to read as follows:

**167.020. REGISTRATION REQUIREMENTS — RESIDENCY — HOMELESS CHILD OR YOUTH DEFINED — RECOVERY OF COSTS, WHEN — RECORDS TO BE REQUESTED, PROVIDED, WHEN.** — 1. As used in this section, the term "homeless child" or "homeless youth" shall mean a person less than twenty-one years of age who lacks a fixed, regular and adequate nighttime residence, including a child or youth who:

(1) Is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; is living in motels, hotels, or camping grounds due to lack of alternative adequate accommodations; is living in emergency or transitional shelters; is abandoned in hospitals; or is awaiting foster care placement;

(2) Has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

(3) Is living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(4) Is a migratory child or youth who qualifies as homeless because the child or youth is living in circumstances described in subdivisions (1) to (3) of this subsection.

2. In order to register a pupil, the parent or legal guardian of the pupil or the pupil himself or herself shall provide, at the time of registration, one of the following:

(1) Proof of residency in the district. Except as otherwise provided in section 167.151, the term "residency" shall mean that a person both physically resides within a school district and is domiciled within that district or, in the case of a private school student suspected of having a disability under the Individuals With Disabilities Education Act, 20 U.S.C. Section 1412, et seq., that the student attends private school within that district. The domicile of a minor child shall be the domicile of a parent, military guardian pursuant to a military-issued guardianship or court-appointed legal guardian. For instances in which the family of a student living in Missouri co-locates to live with other family members or live in a military family support community because one or both of the child's parents are **stationed or** deployed out of state or deployed within Missouri under Title 32 or Title 10 active duty orders, the student may attend the school district in which the family member's residence or family support community is located. If the active duty orders expire during the school year, the student may finish the school year in that district; or

(2) Proof that the person registering the student has requested a waiver under subsection 3 of this section within the last forty-five days. In instances where there is reason to suspect that admission of the pupil will create an immediate danger to the safety of other pupils and employees of the district, the superintendent or the superintendent's designee may convene a hearing within five working days of the request to register and determine whether or not the pupil may register.

3. Any person subject to the requirements of subsection 2 of this section may request a waiver from the district board of any of those requirements on the basis of hardship or good cause. Under no circumstances shall athletic ability be a valid basis of hardship or good cause for the issuance of a waiver of the requirements of subsection 2 of this section. The district board or committee of the board appointed by the president and which shall have full authority to act in lieu of the board shall convene a hearing as soon as possible, but no later than forty-five days after receipt of the waiver request made under this subsection or the waiver request shall be granted. The district board or committee of the board may grant the request for a waiver of any requirement of subsection 2 of this section. The district board or committee of the board may also reject the request for a waiver in which case the pupil shall not be allowed to register. Any person aggrieved by a decision of a district board or committee of the board on a request for a waiver under this subsection may appeal such decision to the circuit court in the county where the school district is located.

4. Any person who knowingly submits false information to satisfy any requirement of subsection 2 of this section is guilty of a class A misdemeanor.

5. In addition to any other penalties authorized by law, a district board may file a civil action to recover, from the parent, military guardian or legal guardian of the pupil, the costs of school attendance for any pupil who was enrolled at a school in the district and whose parent, military guardian or legal guardian filed false information to satisfy any requirement of subsection 2 of this section.

6. Subsection 2 of this section shall not apply to a pupil who is a homeless child or youth, or a pupil attending a school not in the pupil's district of residence as a participant in an interdistrict transfer program established under a court-ordered desegregation program, a pupil who is a ward of the state and has been placed in a residential care facility by state officials, a pupil who has been placed in a residential care facility due to a mental illness or developmental disability, a pupil attending a school pursuant to sections 167.121 and 167.151, a pupil placed in a residential facility by a juvenile court, a pupil with a disability identified under state eligibility criteria if the student is in the district for reasons other than accessing the district's educational program, or a pupil attending a regional or cooperative alternative education program or an alternative education program on a contractual basis.

7. Within two business days of enrolling a pupil, the school official enrolling a pupil, including any special education pupil, shall request those records required by district policy for student transfer and those discipline records required by subsection 9 of section 160.261 from all schools previously attended by the pupil within the last twelve months. Any school district that receives a request for such records from another school district enrolling a pupil that had previously attended a school in such district shall respond to such request within five business days of receiving the request. School districts may report or disclose education records to law enforcement and juvenile justice authorities if the disclosure concerns law enforcement's or juvenile justice authorities' ability to effectively serve, prior to adjudication, the student whose records are released. The officials and authorities to whom such information is disclosed must comply with applicable restrictions set forth in 20 U.S.C. Section 1232g(b)(1)(E).

Approved June 25, 2015

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SB 141 [SB 141]

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

**Raises the amount the Crime Victims' Compensation Fund can pay to eligible victims and provides that the Public Safety Department can negotiate costs on behalf of victims**

AN ACT to repeal section 595.030, RSMo, and to enact in lieu thereof one new section relating to the crime victims' compensation program.

SECTION

A. Enacting clause.

595.030. Compensation, out-of-pocket loss requirement, maximum amount for counseling expenses — award, computation — medical care, requirements — counseling, requirements — maximum award — joint claimants, distribution — method, timing of payment determined by department — negotiations with providers.

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

**SECTION A. ENACTING CLAUSE.** — Section 595.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 595.030, to read as follows:

**595.030. COMPENSATION, OUT-OF-POCKET LOSS REQUIREMENT, MAXIMUM AMOUNT FOR COUNSELING EXPENSES — AWARD, COMPUTATION — MEDICAL CARE, REQUIREMENTS — COUNSELING, REQUIREMENTS — MAXIMUM AWARD — JOINT CLAIMANTS, DISTRIBUTION — METHOD, TIMING OF PAYMENT DETERMINED BY DEPARTMENT — NEGOTIATIONS WITH PROVIDERS.** — 1. No compensation shall be paid unless the claimant has incurred an out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or unreimbursable expenses or indebtedness reasonably incurred:

(1) For medical care or other services, including psychiatric, psychological or counseling expenses, necessary as a result of the crime upon which the claim is based, except that the amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not exceed two thousand five hundred dollars; or

(2) As a result of personal property being seized in an investigation by law enforcement. Compensation paid for an out-of-pocket loss under this subdivision shall be in an amount equal to the loss sustained, but shall not exceed two hundred fifty dollars.

2. No compensation shall be paid unless the department of public safety finds that a crime was committed, that such crime directly resulted in personal physical injury to, or the death of, the victim, and that police records show that such crime was promptly reported to the proper authorities. In no case may compensation be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, unless the department of public safety finds that the report to the police was delayed for good cause. If the victim is under eighteen years of age such report may be made by the victim's parent, guardian or custodian; by a physician, a nurse, or hospital emergency room personnel; by the children's division personnel; or by any other member of the victim's family. In the case of a sexual offense, filing a report of the offense to the proper authorities may include, but not be limited to, the filing of the report of the forensic examination by the appropriate medical provider, as defined in section 595.220, with the prosecuting attorney of the county in which the alleged incident occurred.

3. No compensation shall be paid for medical care if the service provider is not a medical provider as that term is defined in section 595.027, and the individual providing the medical care is not licensed by the state of Missouri or the state in which the medical care is provided.

4. No compensation shall be paid for psychiatric treatment or other counseling services, including psychotherapy, unless the service provider is a:

- (1) Physician licensed pursuant to chapter 334 or licensed to practice medicine in the state in which the service is provided;
- (2) Psychologist licensed pursuant to chapter 337 or licensed to practice psychology in the state in which the service is provided;
- (3) Clinical social worker licensed pursuant to chapter 337; or
- (4) Professional counselor licensed pursuant to chapter 337.

5. Any compensation paid pursuant to sections 595.010 to 595.075 for death or personal injury shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or support from gainful employment, not to exceed [two] **four** hundred dollars per week, resulting from such injury or death. In the event of death of the victim, an award may be made for reasonable and necessary expenses actually incurred for preparation and burial not to exceed five thousand dollars.

6. Any compensation for loss of earnings or support from gainful employment shall be in an amount equal to the actual loss sustained not to exceed [two] **four** hundred dollars per week; provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed twenty-five thousand dollars. If two or more persons are entitled to compensation as a result of the death of a person which is the direct result of a crime or in the case of a sexual assault, the compensation shall be apportioned by the department of public safety among the claimants in proportion to their loss.

7. The method and timing of the payment of any compensation pursuant to sections 595.010 to 595.075 shall be determined by the department.

**8. The department shall have the authority to negotiate the costs of medical care or other services directly with the providers of the care or services on behalf of any victim receiving compensation pursuant to sections 595.010 to 595.075.**

Approved June 24, 2015

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SB 145 [SS SCS SB 145]

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

**Requires health benefit plans cover diagnosis and treatment of eating disorders**

AN ACT to amend chapter 376, RSMo, by adding thereto one new section relating to the treatment of eating disorders.

SECTION

A. Enacting clause.

376.845. Definitions — eating disorders, coverage for diagnosis and treatment of — limitations on coverage.

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

**SECTION A. ENACTING CLAUSE.** — Chapter 376, RSMo, is amended by adding thereto one new section, to be known as section 376.845, to read as follows:

**376.845. DEFINITIONS — EATING DISORDERS, COVERAGE FOR DIAGNOSIS AND TREATMENT OF — LIMITATIONS ON COVERAGE. — 1. For the purposes of this section the following terms shall mean:**

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(1) "Eating disorder", Pica, Rumination Disorder, Avoidant/Restrictive Food Intake Disorder, Anorexia Nervosa, Bulimia Nervosa, Binge Eating Disorder, Other Specified Feeding or Eating Disorder, and any other eating disorder contained in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association where diagnosed by a licensed physician, psychiatrist, psychologist, clinical social worker, licensed marital and family therapist, or professional counselor duly licensed in the state where he or she practices and acting within their applicable scope of practice in the state where he or she practices;

(2) "Health benefit plan", shall have the same meaning as such term is defined in section 376.1350; however, for purposes of this section "health benefit plan" does not include a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policy of six months or less duration, or any other supplemental policy;

(3) "Health carrier", shall have the same meaning as such term is defined in section 376.1350;

(4) "Medical care", health care services needed to diagnose, prevent, treat, cure, or relieve physical manifestations of an eating disorder, and shall include inpatient hospitalization, partial hospitalization, residential care, intensive outpatient treatment, follow up outpatient care, and counseling;

(5) "Pharmacy care", medications prescribed by a licensed physician for an eating disorder and includes any health-related services deemed medically necessary to determine the need or effectiveness of the medications, but only to the extent that such medications are included in the insured's health benefit plan;

(6) "Psychiatric care" and "psychological care", direct or consultative services provided during inpatient hospitalization, partial hospitalization, residential care, intensive outpatient treatment, follow-up outpatient care, and counseling provided by a psychiatrist or psychologist licensed in the state of practice;

(7) "Therapy", medical care and behavioral interventions provided by a duly licensed physician, psychiatrist, psychologist, professional counselor, licensed clinical social worker, or family marriage therapist where said person is licensed or registered in the states where he or she practices;

(8) "Treatment of eating disorders", therapy provided by a licensed treating physician, psychiatrist, psychologist, professional counselor, clinical social worker, or licensed marital and family therapist pursuant to the powers granted under such licensed physician's, psychiatrist's, psychologist's, professional counselor's, clinical social worker's, or licensed marital and family therapist's license in the state where he or she practices for an individual diagnosed with an eating disorder.

2. In accordance with the provisions of section 376.1550, all health benefit plans that are delivered, issued for delivery, continued or renewed on or after January 1, 2017, if written inside the state of Missouri, or written outside the state of Missouri but covering Missouri residents, shall provide coverage for the diagnosis and treatment of eating disorders as required in section 376.1550.

3. Coverage provided under this section is limited to medically necessary treatment that is provided by a licensed treating physician, psychiatrist, psychologist, professional counselor, clinical social worker, or licensed marital and family therapist pursuant to the powers granted under such licensed physician's, psychiatrist's, psychologist's, professional counselor's, clinical social worker's, or licensed marital and family therapist's license and acting within their applicable scope of coverage, in accordance with a treatment plan.

4. The treatment plan, upon request by the health benefit plan or health carrier, shall include all elements necessary for the health benefit plan or health carrier to pay claims. Such elements include, but are not limited to, a diagnosis, proposed treatment by type, frequency and duration of treatment, and goals.

5. Coverage of the treatment of eating disorders may be subject to other general exclusions and limitations of the contract or benefit plan not in conflict with the provisions of this section, such as coordination of benefits, and utilization review of health care services, which includes reviews of medical necessity and care management. Medical necessity determinations and care management for the treatment of eating disorders shall consider the overall medical and mental health needs of the individual with an eating disorder, shall not be based solely on weight, and shall take into consideration the most recent Practice Guideline for the Treatment of Patients with Eating Disorders adopted by the American Psychiatric Association in addition to current standards based upon the medical literature generally recognized as authoritative in the medical community.

Approved June 19, 2015

SB 149 [HCS SS SCS SB 149]

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

**Creates state and local sales and use tax exemptions for data storage centers and allows municipalities to enter into loan agreements, or sell, lease, or mortgage municipal property for a technology business facility**

AN ACT to amend chapter 144, RSMo, by adding thereto one new section relating to tax incentives for data storage.

**SECTION**

A. Enacting clause.

144.810. Data storage centers, exemption from sales and use tax — definitions — procedure — certificates of exemption — rulemaking authority.

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

**SECTION A. ENACTING CLAUSE.** — Chapter 144, RSMo, is amended by adding thereto one new section, to be known as section 144.810, to read as follows:

**144.810. DATA STORAGE CENTERS, EXEMPTION FROM SALES AND USE TAX — DEFINITIONS — PROCEDURE — CERTIFICATES OF EXEMPTION — RULEMAKING AUTHORITY.**  
— 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:

(1) "Commencement of commercial operations", shall be deemed to occur during the first calendar year for which the data storage center is first available for use by the operating taxpayer, or first capable of being used by the operating taxpayer, as a data storage center;

(2) "Constructing taxpayer", if more than one taxpayer is responsible for a project, the taxpayer responsible for the construction of the facility, as opposed to the taxpayer responsible for the ongoing operations of the facility;

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

(4) "Data storage center" or "facility", a facility constructed, extended, improved, or operating under this section, provided that such business facility is engaged primarily in:

- (a) Data processing, hosting, and related services (NAICS 518210); or
- (b) Internet publishing and broadcasting and web search portals (NAICS 519130), at the business facility;
- (5) "Existing facility", an operational data storage center in this state as it existed prior to August 28, 2015, as determined by the department;
- (6) "Expanding facility" or "expanding data storage center", an existing facility or replacement facility that expands its operations in this state on or after August 28, 2015, and has net new investment related to the expansion of operations in this state of at least five million dollars during a period of up to twelve consecutive months and results in the creation of at least five new jobs during a period of up to twenty-four consecutive months from the date of conditional approval for an exemption under this section, if the average wage of the new jobs equals or exceeds one hundred fifty percent of the county average wage. An expanding facility shall continue to be an expanding facility regardless of a subsequent change in or addition of operating taxpayers or constructing taxpayers;
- (7) "Expanding facility project" or "expanding data storage center project", the construction, extension, improvement, equipping, and operation of an expanding facility;
- (8) "Investment" shall include the value of real and depreciable personal property, acquired as part of the new or expanding facility project which is used in the operation of the facility following conditional approval of an exemption under this section;
- (9) "NAICS", the 2007 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group, or industry identified in this section shall include its corresponding classification in previous and subsequent federal industry classification systems;
- (10) "New data storage center project" or "new facility project", the construction, extension, improvement, equipping, and operation of a new facility;
- (11) "New facility" or "new data storage center", a facility in this state meeting the following requirements:
  - (a) The facility is acquired by or leased to an operating taxpayer on or after August 28, 2015. A facility shall be deemed to have been acquired by or leased to an operating taxpayer on or after August 28, 2015, if the transfer of title to an operating taxpayer, the transfer of possession under a binding contract to transfer title to an operating taxpayer, or an operating taxpayer takes possession of the facility under the terms of the lease on or after August 28, 2015, or if the facility is constructed, erected, or installed by or on behalf of an operating taxpayer, such construction, erection, or installation is completed on or after August 28, 2015;
  - (b) Such facility is not an expanding or replacement facility, as defined in this section;
  - (c) The new facility project investment is at least twenty-five million dollars during a period of up to thirty-six consecutive months from the date of the conditional approval for an exemption under this section. If more than one taxpayer is responsible for a project, the investment requirement may be met by an operating taxpayer, a constructing taxpayer, or a combination of constructing taxpayers and operating taxpayers; and
  - (d) At least ten new jobs are created at the new facility during a period of up to thirty-six consecutive months from the date of conditional approval for an exemption under this section if the average wage of the new jobs equals or exceeds one hundred fifty percent of the county average wage;

Any facility which was acquired by an operating or constructing taxpayer from another person or persons on or after August 28, 2015, and such facility was employed prior to August 28, 2015, by any other person or persons in the operation of a data storage center shall not be considered a new facility. A new facility shall continue to be a new facility regardless of a subsequent change in or addition of operating taxpayers or constructing taxpayers;

(12) "New job", in the case of a new data center project, the total number of full-time employees located at a new data storage center for a period of up to thirty-six consecutive months from the date of conditional approval for an exemption under this section. In the case of an expanding data storage center project, the total number of full-time employees located at the expanding data storage center that exceeds the greater of the number of full-time employees located at the project facility on the date of the submission of a project plan under this section or for the twelve-month period prior to the date of the submission of a project plan, the average number of full-time employees located at the expanding data storage center facility. In the event the expanding data storage center facility has not been in operation for a full twelve-month period at the time of the submission of a project plan, the total number of full-time employees located at the expanded data storage center that exceeds the greater of the number of full-time employees located at the project facility on the date of the submission of a project plan under this section or the average number of full-time employees for the number of months the expanding data storage center facility has been in operation prior to the date of the submission of the project plan;

(13) "Notice of intent", a form developed by the department of economic development, completed by the project taxpayer, and submitted to the department, which states the project taxpayer's intent to construct or expand a data center and request the exemptions under this program;

(14) "Operating taxpayer", if more than one taxpayer is responsible for a project, the taxpayer responsible for the ongoing operations of the facility, as opposed to the taxpayer responsible for the purchasing or construction of the facility;

(15) "Project taxpayers", each constructing taxpayer and each operating taxpayer for a data storage center project;

(16) "Replacement facility", a facility in this state otherwise described in subdivision (7) of this subsection, but which replaces another facility located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating within one year prior to the commencement of commercial operations at the new facility;

(17) "Taxpayer", the purchaser of tangible personal property or a service that is subject to state or local sales or use tax and from whom state or local sales or use tax is owed. Taxpayer shall not mean the seller charged by law with collecting the sales tax from the purchaser.

2. In addition to the exemptions granted under chapter 144, project taxpayers for a new data storage center project shall be entitled, for a project period not to exceed fifteen years from the date of conditional approval under this section and subject to the requirements of subsection 3 of this section, to an exemption of one hundred percent of the state and local sales and use taxes defined, levied, or calculated under section 32.085, sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235, limited to the net fiscal benefit of the state calculated over a ten year period, on:

(1) All electrical energy, gas, water, and other utilities including telecommunication and internet services used in a new data storage center;

(2) All machinery, equipment, and computers used in any new data storage center; and

(3) All sales at retail of tangible personal property and materials for the purpose of constructing any new data storage center.

The amount of any exemption provided under this subsection shall not exceed the projected net fiscal benefit to the state over a period of ten years, as determined by the department of economic development using the Regional Economic Modeling, Inc. dataset.

3. (1) Any data storage center project seeking a tax exemption under subsection 2 of this section shall submit a notice of intent and a project plan to the department of

economic development, which shall identify each known constructing taxpayer and known operating taxpayer for the project and include any additional information the department of economic development may require to determine eligibility for the exemption. The department of economic development shall review the project plan and determine whether the project is eligible for the exemption under subsection 2 of this section, conditional upon subsequent verification by the department that the project meets the requirements in subsection 1 of this section for a new facility project. The department shall make such conditional determination within thirty days of submission by the operating taxpayer. Failure of the department to respond within thirty days shall result in a project plan being deemed conditionally approved.

(2) The department of economic development shall convey conditional approvals to the department of revenue and the identified project taxpayers. After a conditionally approved new facility has met the requirements in subsection 1 of this section for a new facility and the execution of the agreement specified in subsection 6 of this section, the project taxpayers shall provide proof of the same to the department of economic development. Upon verification of such proof, the department of economic development shall certify the new facility to the department of revenue as being eligible for the exemption dating retroactively to the first day of construction on the new facility. The department of revenue, upon receipt of adequate proof of the amount of sales taxes paid since the first day of construction, shall issue a refund of taxes paid but eligible for exemption under subsection 2 of this section to each operating taxpayer and each constructing taxpayer and issue a certificate of exemption to each new project taxpayer for ongoing exemptions under subsection 2 of this section. The department of revenue shall issue such a refund within thirty days of receipt of certification from the department of economic development.

(3) The commencement of the exemption period may be delayed at the option of the operating taxpayer, but not more than twenty-four months after the execution of the agreement required under subsection 6 of this section.

4. In addition to the exemptions granted under chapter 144, upon approval by the department of economic development, project taxpayers for expanding data center projects may, for a period not to exceed ten years, be specifically exempted from state and local sales and use taxes defined, levied, or calculated under section 32.085, sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235 on:

(1) All electrical energy, gas, water, and other utilities including telecommunication and internet services used in an expanding data storage center which, on an annual basis, exceeds the amount of electrical energy, gas, water, and other utilities including telecommunication and internet services used in the existing facility or the replaced facility prior to the expansion. For purposes of this subdivision only, "amount" shall be measured in kilowatt hours, gallons, cubic feet, or other measures applicable to a utility service as opposed to in dollars, to account for increases in utility rates;

(2) All machinery, equipment, and computers used in any expanding data storage center; and

(3) All sales at retail of tangible personal property and materials for the purpose of constructing, repairing, or remodeling any expanding data storage center.

The amount of any exemption provided under this subsection shall not exceed the projected net fiscal benefit to the state over a period of ten years, as determined by the department of economic development using the Regional Economic Modeling, Inc., data set or comparable data.

5. (1) Any data storage center project seeking a tax exemption under subsection 4 of this section shall submit a notice of intent and a project plan to the department of economic development, which shall identify each known constructing taxpayer and each

known operating taxpayer for the project and include any additional information the department of economic development may reasonably require to determine eligibility for the exemption. The department of economic development shall review the project plan and determine whether the project is eligible for the exemption under subsection 4 of this section, conditional upon subsequent verification by the department that the project meets the requirements in subsection 1 of this section for an expanding facility project and the execution of the agreement specified in subsection 6 of this section. The department shall make such conditional determination within thirty days of submission by the operating taxpayer. Failure of the department to respond within thirty days shall result in a project plan being deemed conditionally approved.

(2) The department of economic development shall convey such conditional approval to the department of revenue and the identified project taxpayers. After a conditionally approved facility has met the requirements in subsection 1 of this section, the project taxpayers shall provide proof of the same to the department of economic development. Upon verification of such proof, the department of economic development shall certify the project to the department of revenue as being eligible for the exemption dating retroactively to the first day of the expansion of the facility. The department of revenue, upon receipt of adequate proof of the amount of sales taxes paid since the first day of the expansion of the facility, shall issue a refund of taxes paid but eligible for exemption under subsection 4 of this section to any applicable project taxpayer and issue a certificate of exemption to any applicable project taxpayer for ongoing exemptions under subsection 4 of this section. The department of revenue shall issue such a refund within thirty days of receipt of certification from the department of economic development.

(3) The commencement of the exemption period may be delayed at the option of the operating taxpayer, but not more than twenty-four months after the execution of the agreement required under subsection 6 of this section.

6. (1) The exemptions in subsections 2 and 4 of this section shall be tied to the new or expanding facility project. A certificate of exemption in the hands of a taxpayer that is no longer an operating or constructing taxpayer of the new or expanding facility project shall be invalid as of the date the taxpayer was no longer an operating or constructing taxpayer of the new or expanding facility project. New certificates of exemption shall be issued to successor constructing taxpayers and operating taxpayers at such new or expanding facility projects. The right to the exemption by successor taxpayers shall exist without regard to subsequent levels of investment in the new or expanding facility by successor taxpayers.

(2) As a condition of receiving an exemption under subsection 2 or 4 of this section, the project taxpayers shall enter into an agreement with the department of economic development providing for repayment penalties in the event the data storage center project fails to comply with any of the requirements of this section.

(3) The department of revenue shall credit any amounts remitted by the project taxpayers under this subsection to the fund to which the sales and use taxes exempted would have otherwise been credited.

7. Any project taxpayer who submits a notice of intent to the department of economic development to expand a new facility by additional construction, extension, improvement, or equipping within five years of the date the new facility became operation shall be entitled to request the department undertake an additional analysis to determine the projected net fiscal benefit of the expansion to the state over a period of ten years as determined by the department using the Regional Economic Modeling, Inc. dataset or comparable data and shall be entitled to an exemption under this section not to exceed such fiscal benefit to the state for a period of not to exceed fifteen years.

8. The department of economic development and the department of revenue shall cooperate in conducting random audits to ensure that the intent of this section is followed.

9. Notwithstanding any other provision of law to the contrary, no recipient of an exemption pursuant to this section shall be eligible for benefits under any business recruitment tax credit, as defined in section 135.800.

10. The department of economic development and the department of revenue shall jointly prescribe such rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, 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, 2015, shall be invalid and void.

Approved April 9, 2015

SB 156 [HCS SB 156]

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

**Designates certain highways and bridges in the state**

AN ACT to amend chapter 227, RSMo, by adding thereto eight new sections relating to highway designations.

SECTION

- A. Enacting clause.
- 227.380. Theodore McNeal Highway designated for portion of Highway 115 in St. Louis City.
  - 227.417. Jerry Corp Memorial Highway designated for portion of U.S. Highway 160 in Ozark County.
  - 227.423. Betty Vickers Memorial Bridge designated for State Highway 19 bridge in Crawford County.
  - 227.428. Randy Bever Memorial Highway designated for portion of Business Highway 71 in Andrew County.
  - 227.523. Irwin C. Cudworth Memorial Bridge designated on Highway CC in Ozark County.
  - 227.524. Ray-Carroll County Veterans Memorial Highway designated for portion of Highway 10.
  - 227.525. Billy Yates Highway designated for portion of U.S. Highway 160 in Ripley County.
  - 227.526. Veterans Memorial Expressway designated for portion of Highway 54 in Camden County.

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

**SECTION A. ENACTING CLAUSE.** — Chapter 227, RSMo, is amended by adding thereto eight new sections, to be known as sections 227.380, 227.417, 227.423, 227.428, 227.523, 227.524, 227.525, and 227.526, to read as follows:

**227.380. THEODORE MCNEAL HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 115 IN ST. LOUIS CITY.** — The portion of State Highway 115 in St. Louis City from the intersection of Natural Bridge Avenue and Salisbury Street west to the intersection of State Highway 115 and Jennings Station Road shall be designated the "Theodore McNeal Highway". Cost for such designation shall be paid by private donations.

**227.417. JERRY CORP MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF U.S. HIGHWAY 160 IN OZARK COUNTY.** — The portion of U.S. Highway 160 in Ozark County from the bridge that crosses Bryant Creek to a location two and one-half miles east of such bridge shall be known as the "Jerry Corp Memorial Highway". The costs for such designation shall be paid by private donations.

**227.423. BETTY VICKERS MEMORIAL BRIDGE DESIGNATED FOR STATE HIGHWAY 19 BRIDGE IN CRAWFORD COUNTY.** — The bridge on State Highway 19 crossing over the Meramec River in Crawford County between the cities of Cuba and Steelville shall be designated as the "Betty Vickers Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating such bridge, with the costs of such designation to be paid for by private donations.

**227.428. RANDY BEVER MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF BUSINESS HIGHWAY 71 IN ANDREW COUNTY.** — The portion of Business Highway 71 from the Interstate 29 intersection traveling north for two miles and located in Andrew County shall be designated as the "Randy Bever Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway with the cost for such designation to be paid by private donation.

**227.523. IRWIN C. CUDWORTH MEMORIAL BRIDGE DESIGNATED ON HIGHWAY CC IN OZARK COUNTY.** — The bridge on Highway CC crossing over North Fork White River in Ozark County shall be designated the "Irwin C. Cudworth Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating such bridge, with the costs of such designation to be paid for by private donations.

**227.524. RAY-CARROLL COUNTY VETERANS MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 10.** — The portion of Highway 10 from the western border of the city limits of Norborne in Carroll County to the eastern border of the city limits of Hardin in Ray County shall be designated the "Ray-Carroll County Veterans Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway with costs to be paid by private donations.

**227.525. BILLY YATES HIGHWAY DESIGNATED FOR PORTION OF U.S. HIGHWAY 160 IN RIPLEY COUNTY.** — The portion of U.S. Highway 160 in Ripley County which is located within the city limits of Doniphan shall be designated the "Billy Yates Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donation.

**227.526. VETERANS MEMORIAL EXPRESSWAY DESIGNATED FOR PORTION OF HIGHWAY 54 IN CAMDEN COUNTY.** — The portion of Highway 54 from the Grand Glaize Bridge in Camden County to Key Largo Road in Camden County shall be designated the "Veterans Memorial Expressway". The department of transportation shall erect and maintain appropriate signs designating such highway with costs to be paid by private donations.

Approved June 25, 2015

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SB 164 [HCS SB 164]

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

**Exempts in bankruptcy proceedings life insurance proceeds for the burial of a family member, modifies insurance foreign investment limits, changes the requirements for the valuation of reserves for life insurance**

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AN ACT to repeal sections 375.534, 375.1070, 375.1072, 376.370, 376.380, 376.670, 456.950, and 513.430, RSMo, and to enact in lieu thereof twelve new sections relating to financial transactions.

SECTION

- A. Enacting clause.
- 375.534. Foreign governments or corporations, investment in permitted — conditions, requirements.
- 375.1070. Inapplicability to certain insurers.
- 375.1072. Definitions.
- 375.1074. Limitation on investments, domestic insurers.
- 375.1078. Limitation on Canadian investments.
- 376.365. Standard valuation law — definitions.
- 376.370. Director to value reserves, methods.
- 376.380. Legal minimum standards for valuation — interest rates — valuation manual, operative date, effect of — reserves required.
- 376.670. Provisions which shall be contained in life insurance policies, exceptions.
- 456.950. Definition — property and interests in property, immunity from claims, when — death of settlor, effect of — marital property rights, not affected by transfer — applicability.
- 456.1-113. Transfer of assets to trust subjects assets to terms of the trust.
- 513.430. Property exempt from attachment — construction of section.

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

**SECTION A. ENACTING CLAUSE.** — Sections 375.534, 375.1070, 375.1072, 376.370, 376.380, 376.670, 456.950, and 513.430, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 375.534, 375.1070, 375.1072, 375.1074, 375.1078, 376.365, 376.370, 376.380, 376.670, 456.950, 456.1-113, and 513.430, to read as follows:

**375.534. FOREIGN GOVERNMENTS OR CORPORATIONS, INVESTMENT IN PERMITTED — CONDITIONS, REQUIREMENTS.** — 1. In addition to other foreign investments permitted by Missouri law for the type or kind of insurance company involved, the capital, reserves and surplus of all insurance companies of whatever kind and character organized under the laws of this state, having admitted assets of not less than one hundred million dollars, may be invested in securities, investments and deposits issued, guaranteed or assumed by a foreign government or foreign corporation, or located in a foreign country, whether denominated in United States dollars or in foreign currency, subject to the following conditions:

(1) Such securities, investments and deposits shall be of substantially the same kind, class and quality of like United States investments eligible for investment by an insurance company under Missouri law;

(2) An insurance company shall not invest or deposit in the aggregate more than [five] **twenty** percent of its admitted assets under this section, except that an insurance company may reinvest or redeposit any income or profits generated by investments permitted under this section; [and]

(3) **The aggregate amount of foreign investments then held by the insurer under this subsection in a single foreign jurisdiction shall not exceed ten percent of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO "1" or five percent of its admitted assets as to any other foreign jurisdiction; and**

(4) Such securities, investments and deposits shall be aggregated with United States investments of the same class in determining compliance with percentage limitations imposed under Missouri law for investments in that class for the type or kind of insurance company involved.

2. This section shall not apply to an insurer organized under chapter 376.

**375.1070. INAPPLICABILITY TO CERTAIN INSURERS.** — [1. Sections 375.1070 to 375.1075 may be cited as the "Investments in Medium and Lower Quality Obligations Law".

2.] Sections 375.1070 to [375.1075] **375.1078** shall not apply to an insurer organized under chapter 376.

**375.1072. DEFINITIONS.** — As used in sections 375.1070 to [375.1075] **375.1078**, the following terms mean:

(1) "Admitted assets", the amount thereof as of the last day of the most recently concluded annual statement year, computed in the same manner as admitted assets in section 379.080 for insurers other than life;

(2) "Aggregate amount of medium to lower quality obligations", the aggregate statutory statement value thereof;

(3) "Institution", a corporation, a joint-stock company, an association, a trust, a business partnership, a business joint venture or similar entity;

(4) "Medium to lower quality obligations", obligations which are rated three, four, five and six by the Securities Valuation Office of the National Association of Insurance Commissioners.

**375.1074. LIMITATION ON INVESTMENTS, DOMESTIC INSURERS.** — Except as otherwise specified by Missouri law, no domestic insurer shall acquire an investment directly or indirectly through an investment subsidiary if, as a result of and after giving effect to the investment, the insurer would hold more than five percent of its admitted assets in the investments of all kinds issued, assumed, accepted, insured, or guaranteed by a single person.

**375.1078. LIMITATION ON CANADIAN INVESTMENTS.** — 1. No insurer shall acquire, directly or indirectly through an investment subsidiary, a Canadian investment otherwise permitted under Missouri law if, after giving effect to the investment, the aggregate amount of the investments then held by the insurer would exceed twenty-five percent of its admitted assets.

2. For any insurer that is authorized to do business in Canada or that has outstanding insurance, annuity, or reinsurance contracts on lives or risks resident or located in Canada and denominated in Canadian currency, the limitations of subsection 1 of this section shall be increased by the greater of:

(1) The amount the insurer is required by applicable Canadian law to invest in Canada or to be denominated in Canadian currency; or

(2) One hundred twenty-five percent of the amount of the insurer's reserves and other obligations under contracts on risks resident or located in Canada.

**376.365. STANDARD VALUATION LAW — DEFINITIONS.** — 1. Sections 376.365 to 376.380 shall be known and may be cited as the "Standard Valuation Law".

2. As used in sections 376.365 to 376.380, the following terms shall mean and apply on or after the operative date of the valuation manual:

(1) "Accident and health insurance", contracts that incorporate morbidity risk and provide protection against economic loss resulting from accidents, sickness, or medical conditions and as may be specified in the valuation manual;

(2) "Appointed actuary", a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required under subsection 5 of section 376.380;

(3) "Company", an entity which has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts:

(a) In Missouri and has at least one such policy in force or on claim; or

(b) In any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in Missouri;

(4) "Deposit-type contract", a contract that does not incorporate mortality or morbidity risks and as may be specified in the valuation manual;

(5) "Life insurance", contracts that incorporate mortality risk including annuity and pure endowment contracts and as may be specified in the valuation manual;

(6) "NAIC", the National Association of Insurance Commissioners;

(7) "Operative date of the valuation manual", January first of the first calendar year that the valuation manual is effective, as described in subdivision (2) of subsection 6 of section 376.380;

(8) "Policyholder behavior", any action a policyholder, contract holder, or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to sections 376.365 to 376.380 including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract;

(9) "Principle-based valuation", a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with subsection 7 of section 376.380 as specified in the valuation manual;

(10) "Qualified actuary", an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual;

(11) "Tail risk", a risk that occurs either if the frequency of low probability events is higher than expected under a normal probability distribution or if there are observed events of very significant size or magnitude;

(12) "Valuation manual", the manual of valuation instructions adopted by the NAIC as specified in sections 376.365 to 376.380.

**376.370. DIRECTOR TO VALUE RESERVES, METHODS.** — 1. (1) The director of the department of insurance, financial institutions and professional registration shall annually value, or cause to be valued, the reserve liabilities, herein called "reserves", for all outstanding life insurance policies and [annuities] **annuity** and pure endowment contracts of every life insurance company doing business in this state[, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods, net level premium method or other, used in the calculation of such reserves] **issued on or after the operative date provided in subsection 20 of section 376.670 and prior to the operative date of the valuation manual.** In calculating such reserves, [he] **the director** may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, [he] **the director** may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided [and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the director when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction].

(2) **The provisions of subsection 3 of this section and subsections 1 to 3 of section 376.380 shall apply to all policies and contracts, as appropriate, issued on or after the operative date provided in subsection 20 of section 376.670 and prior to the operative date of the valuation manual, and the provisions of subsections 6 and 7 of section 376.380 shall not apply to such policies and contracts.**

(3) **The minimum standard for the valuation of policies and contracts issued prior to the operative date provided in subsection 20 of section 376.670 shall be that provided by the laws in effect immediately prior to the operative date provided in subsection 20 of section 376.670.**

2. (1) **The director shall annually value or caused to be valued the reserves for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and**

health insurance contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves herein required of any foreign or alien company, the director may accept any valuation made or caused to be made by the insurance supervisory official of any state or other jurisdiction if such valuation complies with the minimum standard provided herein.

(2) The provisions of subsections 6 and 7 of section 376.380 shall apply to all policies and contracts issued on or after the operative date of the valuation manual.

[2.] 3. Reserves for all policies and contracts issued prior to August 28, 1993, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date. Reserves for any category of policies, contracts or benefits as established by the director, issued on or after August 28, 1993, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided therein. Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the director, adopt any lower standard of valuation, but not lower than the minimum herein provided; however, for purposes of this subsection, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by [subsection 4] subsections 4 and 5 of section 376.380 shall not be deemed to be the adoption of a higher standard of valuation.

**376.380. LEGAL MINIMUM STANDARDS FOR VALUATION — INTEREST RATES — VALUATION MANUAL, OPERATIVE DATE, EFFECT OF — RESERVES REQUIRED.** — 1. The legal minimum standard for valuation of policies and contracts and the reserves to be maintained thereon shall be as follows:

(1) For those policies and contracts issued prior to the operative date provided in subsection [14] 20 of section 376.670:

(a) Except as otherwise provided in subdivision (3) of this subsection, the legal minimum standard for valuation of policies of life insurance or annuity contracts issued prior to April 13, 1934, shall be the Actuaries' or Combined Experience Table of Mortality, with interest at the rate of five percent per annum for group annuity contracts and four percent per annum for all other policies and contracts; and for policies of life insurance and annuity contracts issued on and after April 13, 1934, such minimum standard shall be the American Experience Table of Mortality with interest at the rate of five percent per annum for group annuity contracts and three and one-half percent per annum for all other policies and contracts;

(b) The director may vary the legal minimum standards of interest and mortality for annuity contracts and in particular cases of invalid or substandard lives and other extra hazards, and shall have the right and authority to designate the legal minimum standard for valuation of total and permanent disability benefits and additional accidental death benefits;

(c) Policies issued by companies doing business in this state may provide for not more than one year preliminary term insurance by incorporating in the provisions thereof, specifying the premium consideration to be received, a clause plainly showing that the first year's insurance under such policies is term insurance, purchased by the whole or a part of the premium to be received during the first policy year and shall be valued accordingly; provided, that if the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereon in less than twenty years from the date of the policy, or under an endowment preliminary term policy, exceeds that charged for life insurance twenty payment life preliminary term policies of the same company, the reserve thereon at the

end of any year, including the first, shall not be less than the reserve on a twenty payment life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium payment period equal to the difference between the value at the end of such period of such twenty payment life preliminary term policy and the full reserve at such time of such a limited payment life or endowment policy. The premium payment period is the period during which premiums are concurrently payable under such twenty payment life preliminary term policy and such limited payment life or endowment policy;

(d) Reserves for all such policies and contracts may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by subdivision (1) of this subsection. In the case of policy obligations of an insolvent life insurance company assumed or reinsured in bulk by an insurance company upon a basis requiring a separate accounting of the business and assets of such insolvent company and an application of any part of the earnings therefrom upon obligations which are not implicit in the original terms of the policies or contracts assumed or reinsured, the director, in order to protect all policyholders of the reinsuring company, including the holders of all policies so assumed or reinsured, and to safeguard the future solvency of such reinsuring company, shall have the right and authority to designate standards of valuation for such reinsured policies and contracts which will produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by subdivision (1) of this subsection or the terms and provisions of the policies and contracts so assumed or reinsured, and, in such event, such reinsuring company shall not, thereafter, adopt any lower standards of valuation without the approval of the director.

(2) For those policies and contracts issued on or after the operative date provided in subsection [14] **20** of section 376.670:

(a) Except as otherwise provided in subdivision (3) of this subsection and subsection 2 of this section, the minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation methods defined in paragraphs (b), (c), (d), (e), and (h) of this subdivision, three and one-half percent interest on all such policies and contracts except those contracts specified in subparagraph c. of **this** paragraph [(a) of this subdivision] which consist of single premium annuity contracts and in subparagraph d. of **this** paragraph [(a) of this subdivision] which consists of group annuity contracts where the interest rate shall be five percent, and except policies and contracts, other than annuity and pure endowment contracts, issued on or after September 28, 1975, where the interest rate shall be four percent interest for such policies issued prior to September 28, 1979, and four and one-half percent interest for such policies issued on or after September 28, 1979, and the following tables:

a. For all ordinary policies of life insurance issued prior to the operative date provided in subsection [10] **12** of section 376.670 on the standard basis, excluding any disability and accidental death benefits in such policies, the Commissioners 1941 Standard Ordinary Mortality Table, and for such policies issued on or after the operative date provided in subsection [10] **12** of section 376.670, and prior to the operative date of subsection [10b] **14** of section 376.670, the Commissioners 1958 Standard Ordinary Mortality Table; provided that for any category of such policies issued on or after September 28, 1979, on female risks all modified net premiums and present values referred to in this section may be calculated according to an age not more than six years younger than the actual age of the insured; and for such policies issued on or after the operative date of subsection [10b] **14** of section 376.670:

- i. The Commissioners 1980 Standard Ordinary Mortality Table; or
  - ii. At the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; or
  - iii. Any ordinary mortality table, adopted after 1980 by the [National Association of Insurance Commissioners] **NAIC**, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies;
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b. For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of subsection [10a] 13 of section 376.670 and for such policies issued on or after such operative date, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the [National Association of Insurance Commissioners] NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies;

c. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the director;

d. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the Group Annuity Mortality Table for 1951, any modification of such table approved by the director, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts;

e. For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of period two disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, adopted after 1980 by the [National Association of Insurance Commissioners] NAIC, that are approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies;

f. For accidental death benefits in or supplementary to policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any accidental death benefits table, adopted after 1980 by the [National Association of Insurance Commissioners] NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such policies; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies;

g. For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the director;

(b) Except as otherwise provided in paragraphs (d), (e), and (h) of this subdivision, reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of a. over b., as follows:

a. A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium

shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy;

b. A net one year term premium for such benefit provided for in the first policy year; provided, that for any life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in paragraph (h) of this subdivision, be the greater of the reserve as of such policy anniversary calculated as described in paragraph (b) of this subdivision and the reserve as of such policy anniversary calculated as described in paragraph (b) of this subdivision, but with:

i. The value defined in subparagraph a. of paragraph (b) of **this subdivision** being reduced by fifteen percent of the amount of such excess first year premium;

ii. All present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date;

iii. The policy being assumed to mature on such date as an endowment; and

iv. The cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in paragraph (a) of this subdivision and subsection 2 of this section shall be used;

(c) Reserves according to the commissioners reserve valuation method for:

a. Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

b. Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended;

c. Disability and accidental death benefits in all policies and contracts; and

d. All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of paragraph (b) of this subdivision;

(d) Paragraph (e) of this subdivision shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship), or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended;

(e) Reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values;

(f) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the method set forth in paragraphs (b), (c), (d), (e), (h) and (i) of this subdivision and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies;

(g) In no event shall the aggregate reserves for all policies, contracts and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by [subsection 4] **subsections 4 and 5** of this section;

(h) If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in paragraph (a) of this subdivision and subsection 2 of this section; provided, that for any life insurance policy issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this paragraph shall be applied as if the method actually used in calculating the reserve for such policy were the method described in paragraph (b) of this subdivision. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with paragraphs (b) and (c) **of this subdivision** and the minimum reserve calculated in accordance with this paragraph;

(i) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in paragraphs (b) to (e) of this subdivision, and paragraph (h) of this subdivision, the reserves which are held under any such plan must:

- a. Be appropriate in relation to the benefits and the pattern of premiums for that plan; and
- b. Be computed by a method which is consistent with the principles of this section as determined by regulations promulgated by the director.

(3) Except as provided in subsection 2 of this section, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subdivision, as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the commissioners reserve valuation methods defined in paragraphs (b), (c), (d), and (e) of subdivision (2) of this subsection, and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued prior to September 28, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the director, and six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts;

(b) For individual single premium immediate annuity contracts issued on or after September 28, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any individual annuity mortality table adopted after 1980 by the [National Association of Insurance Commissioners] **NAIC**, that is approved by regulation

promulgated by the director for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the director, and seven and one-half percent interest;

(c) For individual annuity and pure endowment contracts issued on or after September 28, 1979, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any individual annuity mortality table adopted after 1980 by the [National Association of Insurance Commissioners] NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the director, and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other such individual annuity and pure endowment contracts;

(d) For all annuities and pure endowments purchased prior to September 28, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, or any modification of this table approved by the director, and six percent interest;

(e) For all annuities and pure endowments purchased on or after September 28, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, or any group annuity mortality table adopted after 1980 by the [National Association of Insurance Commissioners] NAIC, that is approved by regulation promulgated by the director for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the director, and seven and one-half percent interest;

(f) On and after September 28, 1975, any company may file with the director a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1980, which shall be the operative date of this subdivision for such company, provided a company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no such election, the operative date of this subdivision for such company shall be January 1, 1980.

2. (1) The calendar year statutory valuation interest rates as defined in this subsection shall be the interest rates used in determining the minimum standard for the valuation of:

(a) All life insurance policies issued in a particular calendar year, on or after the operative date of subsection [10b] 14 of section 376.670;

(b) All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1983;

(c) All annuities and pure endowment contracts purchased in a particular calendar year on or after January 1, 1983, under group annuity and pure endowment contracts; and

(d) The net increase, if any, in a particular calendar year after January 1, 1983, in amounts held under guaranteed interest contracts.

(2) The calendar year statutory valuation interest rates,  $I$ , shall be determined as follows and the results rounded to the nearer one-quarter of one percent:

(a) For life insurance:

$$I = .03 + W (R_1 - .03) + W/2 (R_2 - .09);$$

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

$I = .03 + W (R - .03)$ , where  $R_1$  is the lesser of  $R$  and  $.09$ ;  $R_2$  is the greater of  $R$  and  $.09$ ;  $R$  is the reference interest rate defined in this subsection; and  $W$  is the weighting factor defined in this subsection;

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in paragraph (b) of this

subdivision, the formula for life insurance stated in paragraph (a) of this subdivision shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten years and the formula for single premium immediate annuities stated in paragraph (b) of this subdivision shall apply to annuities and guaranteed interest contracts with guarantee durations of ten years or less;

(d) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in paragraph (b) of this subdivision shall apply;

(e) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in paragraph (b) of this subdivision shall apply. If the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of when subsection [10b] 14 of section 376.670 becomes operative.

(3) The weighting factors referred to in the formulas stated in subdivision (2) of this subsection are given in the following tables:

(a) Weighting factors for life insurance:

| Guarantee<br>Duration<br>(Years)   | Weighting<br>Factors |
|------------------------------------|----------------------|
| 10 or less                         | .50                  |
| More than 10, but not more than 20 | .45                  |
| More than 20                       | .35                  |

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

(b) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options: .80;

(c) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in paragraph (b) of this subdivision, shall be as specified in subparagraphs a., b., and c. of this paragraph, according to the rules and definitions in subparagraphs d., e., and f. of this paragraph:

a. For annuities and guaranteed interest contracts valued on an issue year basis:

| Guarantee<br>Duration<br>(Years)    | Weighting Factor<br>for Plan Type |     |      |
|-------------------------------------|-----------------------------------|-----|------|
|                                     | A                                 | B   | C    |
| 5 or less:                          | .80                               | .60 | .50  |
| More than 5, but not more than 10:  | .75                               | .60 | .50  |
| More than 10, but not more than 20: | .65                               | .50 | .45  |
| More than 20:                       | .45                               | .35 | .35; |

b. For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in subparagraph a. of this paragraph increased by:

Plan Type

|     |     |      |
|-----|-----|------|
| A   | B   | C    |
| .15 | .25 | .05; |

c. For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the factors shown in subparagraph a. of this paragraph or derived in subparagraph b. of this paragraph increased by:

|           |     |      |
|-----------|-----|------|
| Plan Type |     |      |
| A         | B   | C    |
| .05       | .05 | .05; |

d. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence;

e. Plan type as used in subparagraphs a., b., and c. of this paragraph is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or without such adjustment but in installments over five years or more, or as an immediate life annuity, or no withdrawal permitted;

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or without such adjustment but in installments over five years or more, or no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over fewer than five years;

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over fewer than five years either without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund;

f. A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this subsection an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(4) The "reference interest rate" referred to in subdivision (2) of this subsection shall be defined as follows:

(a) For all life insurance, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June thirtieth of the calendar year next preceding the year of issue, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.;

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve months, ending on

June thirtieth of the calendar year of issue or purchase, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.;

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in paragraph (b) of this subdivision, with guarantee duration in excess of ten years, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June thirtieth of the calendar year of issue or purchase, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.;

(d) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in paragraph (b) of this subdivision, with guarantee duration of ten years or less, the average over a period of twelve months, ending on June thirtieth of the calendar year of issue or purchase, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.;

(e) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve months, ending on June thirtieth of the calendar year of issue or purchase, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.;

(f) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in paragraph (b) of this subdivision, the average over a period of twelve months, ending on June thirtieth of the calendar year of the change in the fund, of the Monthly Average of the Composite Yield on Seasoned Corporate Bonds, as published by Moody's Investors Service, Inc.

(5) In the event that the Monthly Average of the Composite Yield on Seasoned Corporate Bonds is no longer published by Moody's Investors Service, Inc., or in the event that the [National Association of Insurance Commissioners] NAIC determines that the Monthly Average of the Composite Yield on Seasoned Corporate Bonds as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the [National Association of Insurance Commissioners] NAIC and approved by regulation promulgated by the director, may be substituted.

3. [The director shall promulgate a regulation containing the minimum standards applicable to the valuation of health, disability and sickness and accident plans] **For accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection 2 of section 376.370. For disability, accident and sickness, and accident and health insurance contracts issued on or after the operative date provided in subsection 20 of section 376.670 and prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the director by regulation.**

4. (1) **This subsection shall apply to actuarial opinions of reserves prior to the date of the valuation manual.**

(2) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the director by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The director by regulation shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

[(2)] (3) (a) Every life insurance company, except as exempted by or pursuant to regulation, shall also annually include in the opinion required by subdivision [(1)] (2) of this subsection, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the director by

regulation, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(b) The director may provide by regulation for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this subsection.

~~[(3)]~~ (4) Each opinion required by subdivision ~~[(2)]~~ (3) of this subsection shall be governed by the following provisions:

(a) A memorandum, in form and substance acceptable to the director as specified by regulation, shall be prepared to support each actuarial opinion; and

(b) If the insurance company fails to provide a supporting memorandum at the request of the director within a period specified by regulation or the director determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the regulations or is otherwise unacceptable to the director, the director may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the director.

~~[(4)]~~ (5) Every opinion **required by this subsection** shall be governed by the following provisions:

(a) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1993;

(b) The opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the director as specified by regulation;

(c) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards as the director may by regulation prescribe;

(d) In the case of an opinion required to be submitted by a foreign or alien company, the director may accept the opinion filed by that company with the insurance supervisory official of another state if the director determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state;

(e) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in such regulations;

(f) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurance company and the director, for any act, error, omission, decision or conduct with respect to the actuary's opinion;

(g) Disciplinary action by the director against the company or the qualified actuary shall be defined in regulations by the director; and

(h) Any memorandum in support of the opinion, and any other material provided by the company to the director in connection therewith, shall be kept confidential by the director and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by regulations promulgated hereunder; except that the memorandum or other material may otherwise be released by the director:

a. With the written consent of the company; or

b. To the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the director for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

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5. (1) This subsection shall apply to actuarial opinions of reserves after the operative date of the valuation manual.

(2) Every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in Missouri and subject to regulation by the director shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable Missouri law. The valuation manual shall prescribe the specifics of such opinion, including any items deemed to be necessary to its scope.

(3) Every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in Missouri and subject to regulation by the director, except as exempted in the valuation manual, shall also annually include in the opinion required under subdivision (2) of this subsection an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts including, but not limited to, benefits under and expenses associated with the policies and contracts.

(4) Each opinion required by subdivision (3) of this subsection shall be governed by the following provisions:

(a) A memorandum, in form and substance as specified in the valuation manual and acceptable to the director, shall be prepared to support each actuarial opinion; and

(b) If the insurance company fails to provide a supporting memorandum at the request of the director within a period specified in the valuation manual or the director determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the director, the director may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the director.

(5) Every opinion required by this subsection shall be governed by the following:

(a) The opinion shall be in form and substance as specified in the valuation manual and acceptable to the director;

(b) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual;

(c) The opinion shall apply to all policies and contracts subject to subdivision (3) of this subsection, plus other actuarial liabilities as may be specified in the valuation manual;

(d) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board or its successor, and on such additional standards as may be prescribed in the valuation manual;

(e) In the case of an opinion required to be submitted by a foreign or alien company, the director may accept the opinion filed by such company with the insurance supervisory official of another state if the director determines that the opinion reasonably meets the requirements applicable to a company domiciled in Missouri;

(f) Except in cases of fraud or willful misconduct, the appointed actuary shall not be liable for damages to any person, other than the insurance company and the director, for any act, error, omission, decision, or conduct with respect to the appointed actuary's opinion; and

(g) Disciplinary action by the director against the company or the appointed actuary shall be defined in regulations by the director.

6. (1) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection 2 of section 376.370, except as provided under subdivision (5) or (7) of this subsection.

(2) The operative date of the valuation manual is January first of the first calendar year following the first July first as of which all of the following have occurred:

(a) The valuation manual has been adopted by the NAIC by an affirmative vote of at least forty-two members or three-fourths of the members voting, whichever is greater;

(b) The Standard Valuation Law as amended by the NAIC in 2009 or legislation including substantially similar terms and provisions has been enacted by states representing greater than seventy-five percent of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident, and health annual statements; health annual statements; or fraternal annual statements;

(c) The Standard Valuation Law as amended by the NAIC in 2009 or legislation including substantially similar terms and provisions has been enacted by at least forty-two of the following fifty-five jurisdictions: the fifty states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico; and

(d) The valuation manual becomes effective under an order of the director.

(3) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January first following the date when all of the following have occurred:

(a) The change to the valuation manual has been adopted by the NAIC by an affirmative vote representing:

a. At least three-fourths of the members of the NAIC voting, but not less than a majority of the total membership; and

b. Members of the NAIC representing jurisdictions totaling greater than seventy-five percent of the direct premiums written as reported in the following annual statements most recently available prior to the vote in subparagraph a. of this paragraph: life, accident, and health annual statements; health annual statements; or fraternal annual statements;

(b) The valuation manual becomes effective under an order of the director.

(4) The valuation manual shall specify all of the following:

(a) Minimum valuation standards for and definitions of the policies or contracts subject to subsection 2 of section 376.370. Such minimum standards shall be:

a. The commissioners reserve valuation method for life insurance contracts, other than annuity contracts, subject to subsection 2 of section 376.370;

b. The commissioners annuity reserve valuation method for annuity contracts subject to subsection 2 of section 376.370; and

c. Minimum reserves for all other policies and contracts subject to subsection 2 of section 376.370;

(b) Which policies or contracts or types of policies or contracts are subject to the requirements of a principle-based valuation under subdivision (1) of subsection 7 of this section and the minimum valuation standards consistent with such requirements;

(c) For policies and contracts subject to principle-based valuation under subsection 7 of this section:

a. Requirements for the format of reports to the director under paragraph (c) of subdivision (2) of subsection 7 of this section and which shall include information necessary to determine if the valuation is appropriate and in compliance with sections 376.365 to 376.380;

b. Assumptions which shall be prescribed for risks over which the company does not have significant control or influence;

c. Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures;

(d) For policies not subject to a principle-based valuation under subsection 7 of this section, the minimum valuation standard shall either:

a. Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or

b. Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring;

(e) Other requirements including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules, and internal controls; and

(f) The data and form of the data required under subsection 8 of this section, to whom the data shall be submitted, and may specify other requirements, including data analyses and reporting of analyses.

(5) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the director, in compliance with sections 376.365 to 376.380, the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the director by regulation.

(6) The director may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in sections 376.365 to 376.380. The director may rely upon the opinion regarding provisions contained in sections 376.365 to 376.380 of a qualified actuary engaged by the director of another state, district, or territory of the United States. As used in this subdivision, engage includes employment and contracting.

(7) The director may require a company to change any assumption or method that in the opinion of the director is necessary in order to comply with the requirements of the valuation manual or sections 376.365 to 376.380, and the company shall adjust the reserves as required by the director. The director may take other disciplinary action as permitted under chapter 354 and chapters 374 to 385.

7. (1) A company shall establish reserves using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:

(a) Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, the company's valuation shall reflect conditions appropriately adverse to quantify the tail risk;

(b) Incorporate assumptions, risk analysis methods, and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods;

(c) Incorporate assumptions that are derived in one of the following manners:

a. The assumption is prescribed in the valuation manual; or

b. For assumptions that are not prescribed, the assumption shall:

(i) Be established utilizing the company's available experience to the extent it is relevant and statistically credible; or

(ii) To the extent that company data is not available, relevant, or statistically credible, be established utilizing other relevant statistically credible experience;

(d) Provide margins for uncertainty, including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

(2) A company using a principle-based valuation for one or more policies or contracts subject to this section as specified in the valuation manual shall:

(a) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual;

(b) Provide to the director an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. Such controls shall be designed to ensure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation and that valuations are made in accordance with the valuation manual. The certification shall be based on the controls in place as of the end of the preceding calendar year;

(c) Develop, and file with the director upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

(3) A principle-based valuation may include a prescribed formulaic reserve component.

8. For policies in force on or after the operative date of the valuation manual, a company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

9. (1) For purposes of this subsection, "confidential information" means:

(a) A memorandum in support of an opinion submitted under subsection 4 or 5 of this section and any other documents, materials, and other information including, but not limited to, all working papers and copies thereof created, produced, or obtained by or disclosed to the director or any other person in connection with such memorandum;

(b) All documents, materials, and other information including, but not limited to, all working papers and copies thereof created, produced, or obtained by or disclosed to the director or any other person in the course of an examination made under subdivision (6) of subsection 6 of this section; provided, however, that if an examination report or other material prepared in connection with an examination made under section 374.205 is not held as private and confidential information under section 374.205, an examination report or other material prepared in connection with an examination made under subdivision (6) of subsection 6 of this section shall not be confidential information to the same extent as if such examination report or other material had been prepared under section 374.205;

(c) Any reports, documents, materials, and other information developed by a company in support of or in connection with an annual certification by the company under paragraph (b) of subdivision (2) of subsection 7 of this section evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information including, but not limited to, all working papers and copies thereof created, produced, or obtained by or disclosed to the director or any other person in connection with such reports, documents, material, and other information;

(d) Any principle-based valuation report developed under paragraph (c) of subdivision (2) of subsection 7 of this section and any other documents, materials, and other information including, but not limited to, all working papers and copies thereof created, produced, or obtained by or disclosed to the director or any other person in connection with such report; and

(e) Any documents, materials, data, and other information submitted by a company under subsection 8 of this section (collectively, "experience data") and any other documents, materials, data, and other information including, but not limited to, all working papers and copies thereof created or produced in connection with such experience data, in each case that include any potentially company-identifying or personally identifiable information, that is provided to or obtained by the director (together with any "experience data", the "experience materials") and any other documents, materials, data, and other information including, but not limited to, all

working papers and copies thereof created, produced, or obtained by or disclosed to the director or any other person in connection with such experience materials.

(2) (a) Except as provided in this subsection, a company's confidential information is confidential by law and privileged, and shall not be subject to chapter 610, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action; provided, however, that the director is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the director's official duties.

(b) Neither the director nor any person who received confidential information while acting under the authority of the director shall be permitted or required to testify in any private civil action concerning any confidential information.

(c) In order to assist in the performance of the director's duties, the director may share confidential information with:

a. Other state, federal, and international regulatory agencies and with the NAIC and its affiliates and subsidiaries; and

b. In the case of confidential information specified in paragraphs (a) and (d) of subdivision (1) of this subsection only, the Actuarial Board for Counseling and Discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials.

(d) The sharing of confidential information detailed in paragraph (c) of this subdivision shall be contingent on such recipient agreeing and having the legal authority to agree to maintain the confidentiality and privileged status of such documents, materials, data, and other information in the same manner and to the same extent as required for the director.

(e) The director may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions, and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

(f) The director may enter into agreements governing sharing and use of information consistent with this subdivision.

(g) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the director under this section or as a result of sharing as authorized in paragraph (c) of this subdivision.

(h) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subdivision shall be available and enforced in any proceeding in, and in any court of, Missouri.

(i) In this subsection, regulatory agency, law enforcement agency, and the NAIC include, but are not limited to, their employees, agents, consultants and contractors.

(3) Notwithstanding subdivision (2) of this subsection, any confidential information specified in paragraphs (a) and (d) of subdivision (1) of this subsection:

(a) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under subsection 4 or 5 of this section or principle-based valuation report developed under paragraph (c) of subdivision (2) of subsection 7 of this section by reason of an action required by sections 376.365 to 376.380 or by regulations promulgated hereunder;

(b) May otherwise be released by the director with the written consent of the company; and

(c) Once any portion of a memorandum in support of an opinion submitted under subsection 4 or 5 of this section or a principle-based valuation report developed under paragraph (c) of subdivision (2) of subsection 7 of this section is cited by the company in its marketing, or is publicly volunteered to or before a governmental agency other than a state insurance department, or is released by the company to the news media, all portions of such memorandum or report shall no longer be confidential.

10. The director may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in Missouri from the requirements of subsection 6 of this section provided:

(1) The director has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing; and

(2) The company computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the director and promulgated by regulation.

For any company granted an exemption under this section, subsection 3 of section 376.370 and subsections 1 to 5 of this section shall be applicable. With respect to any company applying this exemption, any reference to subsection 6 of this section found in subsection 3 of section 376.370 and subsections 1 to 5 of this section shall not be applicable.

11. (1) A company that has less than three hundred million dollars of ordinary life premium and that is licensed and doing business in Missouri and that is subject to the requirements of subsections 6 and 7 of this section, may hold reserves based on the mortality tables and interest rates defined by the valuation manual for net premium reserves and using the methodology defined in the provisions of paragraphs (b) through (i) of subdivision (2) of subsection 1 of this section and subsection 3 of section 376.370 as they apply to ordinary life insurance in lieu of the reserves required by subsections 6 and 7 of this section, provided that:

(a) If the company is a member of a group of life insurers, the group has combined ordinary life premiums of less than six hundred million dollars;

(b) The company reported total adjusted capital of at least four hundred fifty percent of authorized control level risk-based capital in the risk-based capital report for the prior calendar year;

(c) The appointed actuary has provided an unqualified opinion on the reserves in accordance with subsections 4 and 5 of this section for the prior calendar year;

(d) The company has provided a certification by a qualified actuary that any universal life policy with a secondary guarantee issued after the operative date of the valuation manual meets the definition of a nonmaterial secondary guarantee universal life product as defined in the valuation manual.

(2) For purposes of subdivision (1) of this subsection, ordinary life premiums are measured as direct premium plus reinsurance assumed from an unaffiliated company, as reported in the prior calendar year annual statement.

(3) A domestic company meeting all of the above conditions may file a statement prior to July first with the director certifying that these conditions are met for the current calendar year based on premiums and other values from the prior calendar year financial statements. The director may reject such statement prior to September first and require a company to comply with the valuation manual requirements for life insurance reserves.

**376.670. PROVISIONS WHICH SHALL BE CONTAINED IN LIFE INSURANCE POLICIES, EXCEPTIONS.** — 1. As used in this section, "operative date of the valuation manual" shall have the same meaning as set forth in section 376.365.

2. In the case of policies issued on or after the operative date of this section, as defined in subsection [14] 20 of this section, no policy of life insurance, except as stated in subsection [13]

**19 of this section**, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the director of the department of insurance, financial institutions and professional registration are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements specified in this section and are essentially in compliance with subsection [12a] 18 of this section:

(1) That, in the event of default in any premium payment, the company will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as may be herein specified. In lieu of such stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than sixty days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits;

(2) That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be herein specified;

(3) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty days after the due date of the premium in default;

(4) That, if the policy shall have become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of such amount as may be herein specified;

(5) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy;

(6) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

[2.] 3. Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

[3.] 4. The company shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

[4.] **5.** (1) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection [1] **2 of this section**, shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy if there had been no default, including any existing paid-up additions, over the sum of the then present value of the adjusted premiums as defined in subsections [6, 7, 8, 8a, 9, 10, 10a, and 10b] **7, 8, 9, 10, 11, 12, 13, and 14 of this section** corresponding to premiums which would have fallen due on and after such anniversary, and the amount of any indebtedness to the company on the policy.

(2) For any policy issued on or after the operative date of subsection [10b] **14** of this section which provides supplemental life insurance or annuity benefits at the option of the insured for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in subdivision (1) of this subsection shall be an amount not less than the sum of the cash surrender value for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

(3) For any family policy issued on or after the operative date of subsection [10b] **14** of this section which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one, the cash surrender value referred to in subdivision (1) of this subsection shall be an amount not less than the sum of the cash surrender value for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

(4) Any cash surrender value available within thirty days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by subsection [1] **2 of this section**, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

[5.] **6.** Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

[6.] **7.** This subsection and subsections [7, 8, 8a, and 9] **8, 9, 10, and 11** of this section shall not apply to policies issued on or after the operative date of subsection [10b] **14** of this section. Except as provided in subsection [8a] **10 of this section**, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

- (1) The then present value of the future guaranteed benefits provided for by the policy;
  - (2) Two percent of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as herein defined, if the amount of insurance varies with duration of the policy;
  - (3) Forty percent of the adjusted premium for the first policy year;
  - (4) Twenty-five percent of either the adjusted premiums for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.
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[7.] **8.** Provided, however, that in applying the percentages specified in subdivisions (3) and (4) of subsection [6] **7 of this section**, no adjusted premium shall be deemed to exceed four percent of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11 of this section** shall be the date as of which the rated age of the insured is determined.

[8.] **9.** In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11 of this section** shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten.

[8a.] **10.** The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in subsections [6, 7 and 8] **7, 8, and 9 of this section** except that, for the purposes of subdivisions (2), (3) and (4) of subsection [6] **7 of this section**, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

[9.] **11.** Except as otherwise provided in subsections [10 and 10a] **12 and 13 of this section**, all adjusted premiums and present values referred to in this section shall, for all policies of ordinary insurance, be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on and after the effective date of this amendment on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred and thirty percent of the rates of mortality according to such applicable table; provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the director.

[10.] **12.** This subsection shall not apply to ordinary policies issued on or after the operative date of subsection [10b] **14 of this section**. In the case of ordinary policies issued on or after the operative date provided in this subsection, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed three and one-half percent per annum, except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after September 28, 1975, and prior to September 28, 1979, and a rate of interest not exceeding five and one-half percent per annum may be used for policies issued on or after September 28, 1979, and provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may

be calculated according to an age not more than six years younger than the actual age of the insured; provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table; provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the director. After the date when this subsection becomes effective, any company may file with the director a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date, which shall be the operative date of this subsection for such company, this subsection shall become operative with respect to the ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of this subsection for such company shall be January 1, 1966.

[10a.] **13.** This subsection shall not apply to industrial policies issued on or after the operative date of subsection [10b] **14 of this section.** In the case of industrial policies issued on or after the operative date of this subsection as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest shall not exceed three and one-half percent per annum, except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after September 28, 1975, and prior to September 28, 1979, and a rate of interest not exceeding five and one-half percent per annum may be used for policies issued on or after September 28, 1979; provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table; provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the director. After the date when this subsection becomes effective, any company may file with the director a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date, which shall be the operative date of this subsection for such company, this subsection shall become operative with respect to the industrial policies thereafter issued by such company. If a company makes no such election, the operative date of this subsection for such company shall be January 1, 1968.

[10b.] **14.** (1) This subsection shall apply to all policies issued on or after the operative date of this subsection as defined herein. Except as provided in subdivision (7) of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of:

- (a) The then present value of the future guaranteed benefits provided for by the policy; **provided, however, that the nonforfeiture interest rate shall not be less than four percent;**
- (b) One percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and
- (c) One hundred twenty-five percent of the nonforfeiture net level premium as hereinafter defined. In applying the percentage specified in paragraph (c) above, no nonforfeiture net level premium shall be deemed to exceed four percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each

of the first ten policy years. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

(2) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

(3) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(4) Except as otherwise provided in subdivision (7) of this subsection, the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of (A) the sum of the then present value of the then future guaranteed benefits provided for by the policy and the additional expense allowance, if any, over (B) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(5) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of:

(a) One percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and

(b) One hundred twenty-five percent of the increase, if positive, in the nonforfeiture net level premium.

(6) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (a) by (b) where:

(a) Equals the sum of:

a. The nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred; and

b. The present value of the increase in future guaranteed benefits provided for by the policy; and

(b) Equals the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(7) Notwithstanding any other provisions of this subsection to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that in each policy year such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(8) All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1980 Standard Ordinary Mortality Table or, at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors. All adjusted premiums and present values referred to in this section shall for all policies of industrial insurance be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table. All adjusted premiums and present values referred to in this section shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection for policies issued in that calendar year.

(9) Except as provided in subdivision (8) of this subsection:

(a) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in the immediately preceding calendar year;

(b) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection [1] 2 of this section, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any;

(c) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values;

(d) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners 1961 Industrial Extended Term Insurance Table for policies of industrial insurance;

(e) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the tables listed in [subdivision] **paragraph** (d) of this [subsection] **subdivision**;

(f) **For policies issued prior to the operative date of the valuation manual**, any ordinary mortality tables, adopted after 1980 by the [National Association of Insurance Commissioners] **NAIC**, that are approved by regulation promulgated by the director for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table;

(g) **For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. If the director approves by regulation any ordinary mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, such minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual;**

(h) **For policies issued prior to the operative date of the valuation manual**, any industrial mortality tables, adopted after 1980 by the [National Association of Insurance Commissioners] **NAIC**, that are approved by regulation promulgated by the director for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or for the Commissioners 1961 Industrial Extended Term Insurance Table;

(i) **For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the mortality table for use in determining the minimum**

**nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table. If the director approves by regulation any industrial mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, such minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.**

(10) The nonforfeiture interest rate **is defined as follows:**

**(a) For policies issued prior to the operative date of the valuation manual, the nonforfeiture rate** per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five percent of the calendar year statutory valuation interest rate for such policy as defined in section 376.380 rounded to the nearer one-quarter of one percent;

**(b) For policies issued on or after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.**

(11) Notwithstanding any other provision of law to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form[;].

(12) After the effective date of this subsection, any company may file with the director a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1989, which shall be the operative date of this subsection for such company. If a company makes no such election, the operative date of this subsection for such company shall be January 1, 1989.

[10c.] **15.** In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in subsections 1 to [10b] **14** of this section, then:

(1) The director must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subsections 1 to [10b] **14** of this section;

(2) The director must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds;

(3) The cash surrender values and paid-up nonforfeiture benefits provided by the plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this section, as determined by regulations promulgated by the director.

[11.] **16.** Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections [4, 5, 6, 7, 8, 8a, 9, 10, 10a and 10b] **5, 6, 7, 8, 9, 10, 11, 12, 13, and 14** of this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide such additions.

[12.] **17.** Notwithstanding the provisions of subsection [4] **5 of this section**, additional benefits payable:

- (1) In the event of death or dismemberment by accident or accidental means;
- (2) In the event of total and permanent disability;
- (3) As reversionary annuity or deferred reversionary annuity benefits;

(4) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply;

(5) As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid up by reason of the death of a parent of the child; and

(6) As other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits; shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

[12a.] **18.** (1) This subsection, in addition to all other applicable subsections of this section, shall apply to all policies issued on or after January 1, 1986. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two-tenths of one percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years, from the sum of the greater of zero and the basic cash value hereinafter specified and the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

(2) The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as defined in subdivision (3) of this subsection, corresponding to premiums which would have fallen due on and after such anniversary. The effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subsection [4] **5** of this section or in subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11** of this section, whichever is applicable, shall be the same as are the effects specified in subsection [4] **5** of this section or in subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11** of this section, whichever is applicable on the cash surrender values defined in that subsection.

(3) The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11** of this section or in subsection [10b] **14** of this section, whichever is applicable. Except as is required by subdivision (4) of this subsection, such percentage:

(a) Must be the same percentage for each policy year between the second policy anniversary and the later of the fifth policy anniversary or the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and

(b) Must be such that no percentage after the later of the two policy anniversaries specified in paragraph (a) of this subdivision may apply to fewer than five consecutive policy years. No basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in subsections [6, 7, 8, 8a and 9] **7, 8, 9, 10, and 11** of this section or in subsection [10b] **14** of this section, whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

(4) All adjusted premiums and present values referred to in this subsection shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other subsections of this section. The cash surrender values referred to in this subsection shall include any endowment benefits provided for by the policy.

(5) Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit

available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in subsections [3, 4, 5, 10b and 11] **4, 5, 6, 14, and 16** of this section. The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed as subdivisions (1) to (6) in subsection [12] **17** shall conform with the principles of this subsection.

[13.] **19.** (1) This section shall not apply to any of the following:

- (a) Reinsurance;
- (b) Group insurance;
- (c) Pure endowments;
- (d) Annuities or reversionary annuity contracts;
- (e) Term policies of uniform amounts, which provide no guaranteed nonforfeiture or endowment benefits, or renewals thereof of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy;
- (f) Term policies of decreasing amounts, which provide no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium calculated as specified in subsections [6, 7, 8, 8a, 9, 10, 10a, and 10b] **7, 8, 9, 10, 11, 12, 13, and 14 of this section** is less than the adjusted premium so calculated on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance, and for a term of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy;
- (g) Policies, which provide no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subsections [4 to 10b] **5 to 14** of this section, exceeds two and one-half percent of the amount of insurance at the beginning of the same policy year;
- (h) Policies which shall be delivered outside this state through an agent or other representative of the company issuing the policies.

(2) For purposes of determining the applicability of this section, the expiration date for a joint term life insurance policy shall be the age at expiry of the oldest life.

[14.] **20.** After the effective date of this section, any company may file with the director a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1948. After the filing of such notice, then upon such specified date, which shall be the operative date for such company, this section shall become operative with respect to the policies thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be January 1, 1948.

**456.950. DEFINITION — PROPERTY AND INTERESTS IN PROPERTY, IMMUNITY FROM CLAIMS, WHEN — DEATH OF SETTLOR, EFFECT OF — MARITAL PROPERTY RIGHTS, NOT AFFECTED BY TRANSFER — APPLICABILITY.** — 1. As used in this section, "qualified spousal trust" means a trust:

- (1) The settlors of which are [husband and wife] **married to each other** at the time of the creation of the trust; and
- (2) The terms of which provide that during the joint lives of the settlors all property [or interests in property] transferred to, or held by, the trustee are:
  - (a) Held and administered in one trust for the benefit of both settlors, revocable by either **settlor** or both settlors [acting together] while either or both are alive, and each settlor having the right to receive distributions of income or principal, whether mandatory or within the discretion of the trustee, from the entire trust for the joint lives of the settlors and for the survivor's life; or
  - (b) Held and administered in two separate shares of one trust for the benefit of each of the settlors, with the trust revocable by each settlor with respect to that settlor's separate share of that trust without the participation or consent of the other settlor, and each settlor having the right to

receive distributions of income or principal, whether mandatory or within the discretion of the trustee, from that settlor's separate share for that settlor's life; or

(c) Held and administered under the terms and conditions contained in paragraphs (a) and (b) of this subdivision.

2. A qualified spousal trust may contain any other trust terms that are not inconsistent with the provisions of this section, **including, without limitation, a discretionary power to distribute trust property to a person in addition to a settlor.**

3. [Any property or interests in property that are at any time transferred to the trustee of a qualified spousal trust of which the husband and wife are the settlors, shall thereafter be administered as provided by the trust terms in accordance with paragraph (a), (b), or (c) of subdivision (2) of subsection 1 of this section. All trust property and interests in property that is deemed for purposes of this section to be held as tenants by the entirety, including the proceeds thereof, the income thereon, and any property into which such property, proceeds, or income may be converted, shall have the same immunity from the claims of the separate creditors of the settlors as would have existed if the settlors had continued to hold that property as husband and wife as tenants by the entirety. Property or interests in property held by a husband and wife as tenants by the entirety or as joint tenants or other form of joint ownership with right of survivorship shall be conclusively deemed for purposes of this section to be held as tenants by the entirety upon its transfer to the qualified spousal trust. All such transfers shall retain said immunity, so long as:

(1) Both settlors are alive and remain married; and

(2) The property, proceeds, or income continue to be held in trust by the trustee of the qualified spousal trust] **All property at any time held in a qualified spousal trust, without regard to how such property was titled prior to it being so held, shall have the same immunity from the claims of a separate creditor of either settlor as if such property were held outside the trust by the settlors as tenants by the entirety, unless otherwise provided in writing by the settlor or settlors who transferred such property to the trust, and such property shall be treated for that purpose, including without limitation, federal and state bankruptcy laws, as tenants by entirety property. Property held in a qualified spousal trust shall cease to receive immunity from the claims of creditors upon the dissolution of marriage of the settlors by a court.**

4. [Property or interests in property held by a husband and wife or held in the sole name of a husband or wife that are not held as tenants by the entirety or deemed held as tenants by the entirety for purposes of this section and are transferred to a qualified spousal trust shall be held as directed in the qualified spousal trust's governing instrument or in the instrument of transfer and the rights of any claimant to any interest in that property shall not be affected by this section] **As used in this section, "property" means any interest in any type of property held in a qualified spousal trust, the income thereon, and any property into which such interest, proceeds, or income may be converted.**

5. Upon the death of each settlor, all property [and interests in property] held by the trustee of the qualified spousal trust shall be distributed as directed by the then current terms of the governing instrument of such trust. Upon the death of the first settlor to die, if immediately prior to death the predeceased settlor's interest in the qualified spousal trust was then held in such settlor's separate share, the property [or interests in property] **held** in such settlor's separate share may pass into an irrevocable trust for the benefit of the surviving settlor upon such terms as the governing instrument shall direct, including without limitation a spendthrift provision as provided in section 456.5-502.

6. **The respective rights of settlors who are married to each other in any property for purposes of a dissolution of the settlors' marriage shall not be affected or changed by reason of the transfer of that property to, or its subsequent administration as an asset of, a qualified spousal trust during the marriage of the settlors, unless both settlors expressly agree otherwise in writing.**

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7. **No transfer [ by a husband and wife as settlors]** to a qualified spousal trust shall [affect or change either settlor's marital property rights to the transferred property or interest therein immediately prior to such transfer in the event of dissolution of marriage of the spouses, unless both spouses otherwise expressly agree in writing] **avoid or defeat the Missouri uniform transfer act in chapter 428.**

[7.] 8. This section shall apply to all trusts which fulfill the criteria set forth in this section for a qualified spousal trust regardless of whether such trust was created before, **on**, or after August 28, 2011.

**456.1-113. TRANSFER OF ASSETS TO TRUST SUBJECTS ASSETS TO TERMS OF THE TRUST.**  
— **Any transfer of an asset to a trustee of a trust, to such trust itself, or to a share of such trust, in a manner that is reasonably calculated to identify such trust or that share of such trust, subjects that asset to the terms of such trust or that share.**

**513.430. PROPERTY EXEMPT FROM ATTACHMENT — 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 unmaturred life insurance contracts owned by such person, other than a credit life insurance contract, **and up to fifteen thousand dollars of any matured life insurance proceeds for actual funeral, cremation, or burial expenses where the deceased is the spouse, child, or parent of the beneficiary;**

(8) The amount of any accrued dividend or interest under, or loan value of, any one or more unmaturred 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 456.014, 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. Section 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, 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 department of social 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.

Approved July 10, 2015

SB 166 [SB 166]

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

**Changes the name of the "I Have a Dream" specialty license plate to the "Dare to Dream" specialty license plate**

AN ACT to repeal section 301.3165, RSMo, and to enact in lieu thereof one new section relating to special license plates.

SECTION

- A. Enacting clause.  
301.3165. DARE TO DREAM special license plate, application, fee.

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

**SECTION A. ENACTING CLAUSE.** — Section 301.3165, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.3165, to read as follows:

**301.3165. DARE TO DREAM SPECIAL LICENSE PLATE, APPLICATION, FEE.** — 1. Any vehicle owner may apply for special "[I HAVE A] **DARE TO DREAM**" motor vehicle license plates as prescribed by this section for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after making an annual contribution of twenty-five dollars to the Martin Luther King, Jr. state celebration commission fund. If the contribution is made directly to the Martin Luther King, Jr. state celebration commission, the commission shall issue the individual making a contribution a receipt, verifying the contribution, that may be used to apply for the "[I HAVE A] **DARE TO DREAM**" license plate described in this section. If the contribution is made directly to the director of revenue, the director shall note the contribution and the owner may then apply for the "[I HAVE A] **DARE TO DREAM**" license plate. All contributions shall be credited to the Martin Luther King, Jr. state celebration commission fund as established in subsection 4 of this section and shall be used for the sole purpose of funding appropriate activities for the recognition and celebration of Martin Luther King, Jr. Day in Missouri.

2. Upon payment of a twenty-five dollar contribution to the Martin Luther King, Jr. state celebration commission fund as described in subsection 1 of this section, the payment of a fifteen dollar fee in addition to regular registration fees, and the presentment of other documents which may be required by law, the director shall issue to the vehicle owner a specialty personalized license plate which shall bear the emblem of the Martin Luther King, Jr. state celebration commission and the words "[I HAVE A] **DARE TO DREAM**" at the bottom of the plate in a manner prescribed by the director of revenue. Such license plates shall be made with fully reflective material with a common color scheme and design of the standard license plate, shall be clearly visible at night, shall have a reflective white background in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section.

3. A vehicle owner who was previously issued a plate with words "[I HAVE A] **DARE TO DREAM**" as authorized by this section but who does not present proof of payment of an annual twenty-five dollar contribution to the Martin Luther King, Jr. state celebration commission fund at a subsequent time of registration shall be issued a new plate which does not bear the words "[I HAVE A] **DARE TO DREAM**", as otherwise provided by law.

4. There is established in the state treasury the "Martin Luther King, Jr. State Celebration Commission Fund". The state treasurer shall credit to and deposit in the fund all amounts received pursuant to this section, and any other amounts which may be received from grants, gifts, bequests, the federal government, or other sources granted or given for purposes of this section. The state treasurer shall be custodian of the fund. The fund shall be a dedicated fund and, upon appropriation, moneys in the fund shall be used solely for the sole purpose of funding appropriate activities for the recognition and celebration of Martin Luther King, Jr. Day in Missouri. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

5. The director shall consult with the Martin Luther King, Jr. state celebration commission and the office of administration when formulating the design for the special license plate described in this section. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section. 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, 2012, shall be invalid and void.

Approved July 6, 2015

SB 174 [HCS SS SCS SB 174]

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

**Establishes the Missouri Achieving a Better Life Experience Program**

AN ACT to amend chapter 166, RSMo, by adding thereto ten new sections relating to the Missouri Achieving a Better Life Experience program.

SECTION

- A. Enacting clause.
- 166.600. Definitions.
- 166.605. Program created — ABLE board to administer, members, terms — powers — meetings — investment of funds.
- 166.610. Agreements, terms and conditions — contribution limits.
- 166.615. Deposit and investment of moneys.
- 166.620. Cancellation of participation agreement, penalty.
- 166.625. Assets exempt from taxation.
- 166.630. Assets used for ABLE program purposes only — no state property rights in assets.
- 166.635. Rulemaking authority.
- 166.640. State treasurer's office, semiannual review.
- 166.645. ABLE account moneys not part of total state revenues.

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

**SECTION A. ENACTING CLAUSE.** — Chapter 166, RSMo, are amended by adding thereto ten new sections, to be known as sections 166.600, 166.605, 166.610, 166.615, 166.620, 166.625, 166.630, 166.635, 166.640, and 166.645, to read as follows:

**166.600. DEFINITIONS.** — 1. As used in sections 166.600 to 166.645, except where the context clearly requires another interpretation, the following terms mean:

- (1) "ABLE account", the same meaning as in Section 529A of the Internal Revenue Code;
- (2) "Benefits", the payment of qualified disability expenses on behalf of a designated beneficiary from an ABLE account;
- (3) "Board", the Missouri Achieving a Better Life Experience board established in section 166.605;
- (4) "Designated beneficiary", the same meaning as in Section 529A of the Internal Revenue Code;
- (5) "Eligible individual", the same meaning as in Section 529A of the Internal Revenue Code;
- (6) "Financial institution", a bank, insurance company or registered investment company;
- (7) "Internal Revenue Code", the Internal Revenue Code of 1986, as amended;
- (8) "Missouri Achieving a Better Life Experience program" or "ABLE", the program created pursuant to sections 166.600 to 166.645;
- (9) "Participant", a person who has entered into a participation agreement pursuant to sections 166.600 to 166.645 for the advance payment of qualified disability expenses on behalf of a designated beneficiary. Unless otherwise permitted under Section 529A of the Internal Revenue Code the participant shall be the designated beneficiary of the ABLE Account, except that if the designated beneficiary of the account is a minor or has a custodian or other fiduciary appointed for the purpose of managing his or her financial affairs, the parent or custodian or other fiduciary of the designated beneficiary may serve as the participant if such form of ownership is permitted or not prohibited by Section 529A of the Internal Revenue Code;
- (10) "Participation agreement", an agreement between a participant and the board pursuant to and conforming with the requirements of sections 166.600 to 166.645; and
- (11) "Qualified disability expenses", the same meaning as in Section 529A of the Internal Revenue Code.

**166.605. PROGRAM CREATED — ABLE BOARD TO ADMINISTER, MEMBERS, TERMS — POWERS — MEETINGS — INVESTMENT OF FUNDS.** — 1. There is hereby created the "Missouri Achieving a Better Life Experience Program". The program shall be administered by the Missouri ABLE board which shall consist of the Missouri state treasurer who shall serve as chairman, the director of the department of health and senior services or his or her designee, the commissioner of the office of administration or his or her designee, the director of the department of economic development or his or her designee, two persons having demonstrable experience and knowledge in the areas of finance or the investment and management of public funds, one of whom is selected by the president pro tempore of the senate and one of whom is selected by the speaker of the house of representatives, and one person having demonstrable experience and knowledge in the area of banking or deposit rate determination and placement of depository certificates of deposit or other deposit investments. Such member shall be appointed by the governor with the advice and consent of the senate. The three appointed members shall be appointed to serve for terms of four years from the date of appointment, or until their successors shall have been appointed and qualified. The members of the board shall be subject to the provisions of section 105.452. Any member who violates the provisions of section 105.452 shall be removed from the board.

2. In order to establish and administer the ABLE program, the board, in addition to its other powers and authority, shall have the power and authority to:

- (1) Develop and implement the Missouri Achieving a Better Life Experience program;

(2) Promulgate reasonable rules and regulations and establish policies and procedures to implement sections 166.600 to 166.645 to permit the ABLÉ program to qualify as a "qualified ABLÉ program" pursuant to Section 529A of the Internal Revenue Code and to ensure ABLÉ program's compliance with all applicable laws;

(3) Develop and implement educational programs and related informational materials for participants, either directly or through a contractual arrangement with a financial institution for investment services, and their families, including special programs and materials to inform individuals with disabilities regarding methods for financing the lives of individuals with disabilities so as to maintain health, independence, and quality of life;

(4) Enter into agreements with any financial institution, or any state or federal agency or entity as required for the operation of the ABLÉ program pursuant to sections 166.600 to 166.645;

(5) Enter into participation agreements with participants;

(6) Accept any grants, gifts, legislative appropriations, and other moneys from the state, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the account of the ABLÉ program;

(7) Invest the funds received from participants in appropriate investment instruments to achieve long-term total return through a combination of capital appreciation and current income;

(8) Make appropriate payments and distributions on behalf of designated beneficiaries pursuant to participation agreements;

(9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in sections 166.600 to 166.645 and the rules adopted by the board;

(10) Make provision for the payment of costs of administration and operation of the ABLÉ program;

(11) Effectuate and carry out all the powers granted by sections 166.600 to 166.645, and have all other powers necessary to carry out and effectuate the purposes, objectives and provisions of sections 166.600 to 166.645 pertaining to the ABLÉ program;

(12) Procure insurance, guarantees or other protections against any loss in connection with the assets or activities of the ABLÉ program; and

(13) Enter into agreements with other states to allow residents of that state to participate in the Missouri Achieving a Better Life Experience program.

3. Four members of the board shall constitute a quorum. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board. No action shall be taken by the board except upon the affirmative vote of a majority of the members present. Any member of the board may designate a proxy for that member who will enjoy the full voting privileges of that member for the one meeting so specified by such member. No more than three proxies shall be considered members of the board for purposes of establishing a quorum.

4. The board shall meet within the state of Missouri at the time set at a previously scheduled meeting or by the request of any four members of the board. Notice of the meeting shall be delivered to all members of the board in person or by depositing notice in a United States post office in a properly stamped and addressed envelope not less than six days prior to the date fixed for the meeting. The board may meet at any time by unanimous mutual consent. There shall be at least one meeting in each quarter.

5. The funds of the ABLÉ program shall be invested only in those investments which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims, as provided in section 105.688. For new contracts entered into after August 28, 2015, board members shall study investment plans of other states and contract with or negotiate to provide benefit

options the same as or similar to other states' qualified plans for the purpose of offering additional options for members of the plan. The board may delegate to duly appointed investment counselors authority to act in place of the board in the investment and reinvestment of all or part of the moneys and may also delegate to such counselors the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring, or disposing of any or all of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys. Such investment counselors shall be registered as investment advisors with the United States Securities and Exchange Commission. In exercising or delegating its investment powers and authority, members of the board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. No member of the board shall be liable for any action taken or omitted with respect to the exercise of, or delegation of, these powers and authority if such member shall have discharged the duties of his or her position in good faith and with that degree of diligence, care, and skill which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

6. No investment transaction authorized by the board shall be handled by any company or firm in which a member of the board has a substantial interest, nor shall any member of the board profit directly or indirectly from any such investment.

7. No member of the board or employee of the ABLÉ program shall receive any gain or profit from any funds or transaction of the ABLÉ program. Any member of the board, employee, or agent of the ABLÉ program accepting any gratuity or compensation for the purpose of influencing such member of the board's, employee's, or agent's action with respect to the investment or management of the funds of the ABLÉ program shall thereby forfeit the office and in addition thereto be subject to the penalties prescribed for bribery.

**166.610. AGREEMENTS, TERMS AND CONDITIONS—CONTRIBUTION LIMITS.** — 1. The board may enter into ABLÉ program participation agreements with participants on behalf of designated beneficiaries pursuant to the provisions of sections 166.600 to 166.645, including the following terms and conditions:

(1) A participation agreement shall stipulate the terms and conditions of the ABLÉ program in which the participant makes contributions;

(2) A participation agreement shall specify the method for calculating the return on the contribution made by the participant;

(3) A participation agreement shall clearly and prominently disclose to participants the risk associated with depositing moneys with the board;

(4) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public; and

(5) A participation agreement shall clearly and prominently disclose to participants the existence of any load charge or similar charge assessed against the accounts of the participants for administration or services.

2. The board shall establish the maximum amount of contributions which may be made annually to an ABLÉ account, which shall be the same as the amount allowed by Section 529A of the Internal Revenue Code of 1986, as amended.

3. The board shall establish a total contribution limit for savings accounts established under the ABLÉ program with respect to a designated beneficiary which shall in no event be less than the amount established as the contribution limit by the Missouri higher education savings program board for qualified tuition savings programs established under sections 166.400 to 166.450. No contribution shall be made to an ABLÉ account for a designated beneficiary if it would cause the balance of the ABLÉ account of the

designated beneficiary to exceed the total contribution limit established by the board. The board may establish other requirements that it deems appropriate to provide adequate safeguards to prevent contributions on behalf of a designated beneficiary from exceeding what is necessary to provide for the qualified disability expenses of the designated beneficiary.

4. The board shall establish the minimum length of time that contributions and earnings must be held by the ABLE program to qualify as tax exempt pursuant to section 166.625. Any contributions or earnings that are withdrawn or distributed from an ABLE account prior to the expiration of the minimum length of time, as established by the board, shall be subject to a penalty pursuant to section 166.620.

**166.615. DEPOSIT AND INVESTMENT OF MONEYS.** — All money paid by a participant in connection with a participation agreement shall be deposited as received and shall be promptly invested by the board. Contributions and earnings thereon accumulated on behalf of participants in the ABLE program may be used, as provided in the participation agreement, for qualified disability expenses.

**166.620. CANCELLATION OF PARTICIPATION AGREEMENT, PENALTY.** — Any participant may cancel a participation agreement at will. The board shall impose a penalty equal to or greater than ten percent of the earnings of an ABLE account for any distribution that is not:

- (1) Used exclusively for qualified disability expenses of the designated beneficiary;
- (2) Made because of death of the designated beneficiary; or
- (3) Held in the fund for the minimum length of time established by the board.

**166.625. ASSETS EXEMPT FROM TAXATION.** — 1. Notwithstanding any law to the contrary, the assets of the ABLE program held by the board and the assets of any ABLE account and any income therefrom shall be exempt from all taxation by the state or any of its political subdivisions. Income earned or received from an ABLE account or deposit shall not be subject to state income tax imposed pursuant to chapter 143. The exemption from taxation pursuant to this section shall apply only to assets and income maintained, accrued, or expended pursuant to the requirements of the ABLE program established pursuant to sections 166.600 to 166.645, and no exemption shall apply to assets and income expended for any other purposes. Annual contributions made to the ABLE program held by the board up to and including eight thousand dollars per participating taxpayer, and up to sixteen thousand dollars for married individuals filing a joint tax return, shall be subtracted in determining Missouri adjusted gross income pursuant to section 143.121.

2. If any deductible contributions to or earnings from any such program referred to in this section are distributed and not used to pay qualified disability expenses or are not held for the minimum length of time established by the appropriate Missouri board, the amount so distributed shall be added to the Missouri adjusted gross income of the participant, or, if the participant is not living, the designated beneficiary.

3. The provisions of this section shall apply to tax years beginning on or after January 1, 2015.

**166.630. ASSETS USED FOR ABLE PROGRAM PURPOSES ONLY — NO STATE PROPERTY RIGHTS IN ASSETS.** — The assets of the ABLE program shall at all times be preserved, invested, and expended only for the purposes set forth in this section and in accordance with the participation agreements, and no property rights therein shall exist in favor of the state.

**166.635. RULEMAKING AUTHORITY.** — 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, 2015, shall be invalid and void.

**166.640. STATE TREASURER'S OFFICE, SEMIANNUAL REVIEW.** — The director of investment of the state treasurer's office shall, on a semiannual basis, review the financial status and investment policy of the program as well as the participation rate in the program. The director of investment shall also review the continued viability of the program and the administration of the program by the board. The director of investment shall report the findings annually to the board, which shall subsequently disclose such findings at a public meeting.

**166.645. ABLE ACCOUNT MONEYS NOT PART OF TOTAL STATE REVENUES.** — Money accruing to and deposited in individual ABLE accounts shall not be part of "total state revenues" as defined in sections 17 and 18 of article X of the Constitution of the State of Missouri and the expenditure of such revenues shall not be an expense of state government under section 20 of article X of the Constitution of the State of Missouri.

Approved June 29, 2015

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SB 190 [SCS SB 190]

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

**Removes the expiration of the Kansas City transportation sales tax and modifies provisions relating to audits of transportation development districts**

AN ACT to repeal section 92.402, RSMo, and to enact in lieu thereof one new section relating to public mass transportation sales taxes.

**SECTION**

A. Enacting clause.

92.402. Tax, how imposed — rate of tax — boundary changes, procedure, effect of.

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

**SECTION A. ENACTING CLAUSE.** — Section 92.402, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 92.402, to read as follows:

**92.402. TAX, HOW IMPOSED — RATE OF TAX — BOUNDARY CHANGES, PROCEDURE, EFFECT OF.** — 1. Any city may, by a majority vote of its council or governing body, impose a sales tax for the benefit of the public mass transportation system operating within such city as provided in sections 92.400 to 92.421.

2. The sales tax may be imposed at a rate not to exceed one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any city adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525. Seven and one-half percent of the sales tax shall be distributed to the interstate transportation authority pursuant to the

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provisions of section 92.421. The [remainder of the tax in excess of such seven and one-half percent shall expire on December 31, 2015, on which date the] authority shall be in full compliance with handicapped accessibility pursuant to the terms of the Americans with Disabilities Act.

3. Within ten days after the adoption of any ordinance imposing such a sales tax, the city clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance of the council or governing body. The ordinance shall reflect the effective date thereof and shall be accompanied by a map of the city clearly showing the boundaries thereof.

4. If the boundaries of a city in which such sales tax has been imposed shall thereafter be changed or altered, the city clerk shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance adding or detaching territory from the city. The ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the city clearly showing the territory added thereto or detached therefrom. Upon receipt of the ordinance and map, the tax imposed by sections 92.400 to 92.421 shall be effective in the added territory or abolished in the detached territory on the effective date of the change of the city boundary.

Approved July 13, 2015

SB 194 [SB 194]

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

**Extends the date that a business must commence operations to qualify for a business facility tax credit**

AN ACT to repeal section 135.155, RSMo, and to enact in lieu thereof one new section relating to tax credits for business facilities.

**SECTION**

A. Enacting clause.

135.155. Prohibition on certain enterprises receiving certain incentives — expansion deemed new business facility — certain properties considered one facility, when.

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

**SECTION A. ENACTING CLAUSE.** — Section 135.155, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.155, to read as follows:

**135.155. PROHIBITION ON CERTAIN ENTERPRISES RECEIVING CERTAIN INCENTIVES — EXPANSION DEEMED NEW BUSINESS FACILITY — CERTAIN PROPERTIES CONSIDERED ONE FACILITY, WHEN.** — 1. Notwithstanding any provision of the law to the contrary, no revenue-producing enterprise other than headquarters as defined in subsection 10 of section 135.110 shall receive the incentives set forth in sections 135.100 to 135.150 for facilities commencing operations on or after January 1, 2005. No headquarters shall receive the incentives set forth in subsections 9 to 14 of section 135.110 for facilities commencing or expanding operations on or after January 1, [2020] **2025**.

2. Notwithstanding subsection 9 of section 135.110 to the contrary, expansions at headquarters facilities shall each be considered a separate new business facility and each be entitled to the credits as set forth in subsections 9 to 14 of section 135.110 if the number of new

business facility employees attributed to each such expansion is at least twenty-five and the amount of new business facility investment attributed to each such expansion is at least one million dollars. In any year in which a new business facility is not created, the jobs and investment for that year shall be included in calculating the credits for the most recent new business facility and not an earlier created new business facility.

3. Notwithstanding any provision of law to the contrary, for headquarters, buildings on multiple noncontiguous real properties shall be considered one facility if the buildings are located within the same county or within the same municipality.

Approved June 22, 2015

SB 210 [CCS HCS SCS SB 210]

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

**Extends the sunset on certain healthcare provider reimbursement allowance taxes and modifies provisions relating to MO HealthNet and DSH payments**

AN ACT to repeal sections 190.839, 198.439, 208.152, 208.437, 208.480, 338.550, and 633.401, RSMo, and to enact in lieu thereof eight new sections relating to health care.

SECTION

- A. Enacting clause.
- 190.839. Expiration date.
- 198.439. Expiration date.
- 208.152. Medical services for which payment will be made — co-payments may be required — reimbursement for services — notification upon change in interpretation or application of reimbursement.
- 208.437. Reimbursement allowance period — notification of balance due, when — delinquent payments, procedure, basis for denial of licensure — expiration date.
- 208.480. Federal reimbursement allowance expiration date.
- 208.482. Disproportionate share hospital payments, restriction on audit recoupments — expiration date.
- 338.550. Expiration date of tax, when.
- 633.401. Definitions — assessment imposed, formula — rates of payment — fund created, use of moneys — record-keeping requirements — report — appeal process — rulemaking authority — expiration date.

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

**SECTION A. ENACTING CLAUSE.** — Sections 190.839, 198.439, 208.152, 208.437, 208.480, 338.550, and 633.401, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 190.839, 198.439, 208.152, 208.437, 208.480, 208.482, 338.550, and 633.401, to read as follows:

**190.839. EXPIRATION DATE.** — Sections 190.800 to 190.839 shall expire on September 30, [2015] **2016**.

**198.439. EXPIRATION DATE.** — Sections 198.401 to 198.436 shall expire on September 30, [2015] **2016**.

**208.152. MEDICAL SERVICES FOR WHICH PAYMENT WILL BE MADE — CO-PAYMENTS MAY BE REQUIRED — REIMBURSEMENT FOR SERVICES — NOTIFICATION UPON CHANGE IN INTERPRETATION OR APPLICATION OF REIMBURSEMENT.** — 1. MO HealthNet payments shall be made on behalf of those eligible needy persons as defined in section 208.151 who are unable to provide for it in whole or in part, with any payments to be made on the basis of the reasonable

cost of the care or reasonable charge for the services as defined and determined by the MO HealthNet division, unless otherwise hereinafter provided, for the following:

(1) Inpatient hospital services, except to persons in an institution for mental diseases who are under the age of sixty-five years and over the age of twenty-one years; provided that the MO HealthNet division shall provide through rule and regulation an exception process for coverage of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile professional activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay schedule; and provided further that the MO HealthNet division shall take into account through its payment system for hospital services the situation of hospitals which serve a disproportionate number of low-income patients;

(2) All outpatient hospital services, payments therefor to be in amounts which represent no more than eighty percent of the lesser of reasonable costs or customary charges for such services, determined in accordance with the principles set forth in Title XVIII A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301, et seq.), but the MO HealthNet division may evaluate outpatient hospital services rendered under this section and deny payment for services which are determined by the MO HealthNet division not to be medically necessary, in accordance with federal law and regulations;

(3) Laboratory and X-ray services;

(4) Nursing home services for participants, except to persons with more than five hundred thousand dollars equity in their home or except for persons in an institution for mental diseases who are under the age of sixty-five years, when residing in a hospital licensed by the department of health and senior services or a nursing home licensed by the department of health and senior services or appropriate licensing authority of other states or government-owned and -operated institutions which are determined to conform to standards equivalent to licensing requirements in Title XIX of the federal Social Security Act (42 U.S.C. Section 301, et seq.), as amended, for nursing facilities. The MO HealthNet division may recognize through its payment methodology for nursing facilities those nursing facilities which serve a high volume of MO HealthNet patients. The MO HealthNet division when determining the amount of the benefit payments to be made on behalf of persons under the age of twenty-one in a nursing facility may consider nursing facilities furnishing care to persons under the age of twenty-one as a classification separate from other nursing facilities;

(5) Nursing home costs for participants receiving benefit payments under subdivision (4) of this subsection for those days, which shall not exceed twelve per any period of six consecutive months, during which the participant is on a temporary leave of absence from the hospital or nursing home, provided that no such participant shall be allowed a temporary leave of absence unless it is specifically provided for in his plan of care. As used in this subdivision, the term "temporary leave of absence" shall include all periods of time during which a participant is away from the hospital or nursing home overnight because he is visiting a friend or relative;

(6) Physicians' services, whether furnished in the office, home, hospital, nursing home, or elsewhere;

(7) Drugs and medicines when prescribed by a licensed physician, dentist, podiatrist, or an advanced practice registered nurse; except that no payment for drugs and medicines prescribed on and after January 1, 2006, by a licensed physician, dentist, podiatrist, or an advanced practice registered nurse may be made on behalf of any person who qualifies for prescription drug coverage under the provisions of P.L. 108-173;

(8) Emergency ambulance services and, effective January 1, 1990, medically necessary transportation to scheduled, physician-prescribed nonelective treatments;

(9) Early and periodic screening and diagnosis of individuals who are under the age of twenty-one to ascertain their physical or mental defects, and health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby. Such services shall be provided in accordance with the provisions of Section 6403 of P.L. 101-239 and federal regulations promulgated thereunder;

(10) Home health care services;

(11) Family planning as defined by federal rules and regulations; provided, however, that such family planning services shall not include abortions unless such abortions are certified in writing by a physician to the MO HealthNet agency that, in the physician's professional judgment, the life of the mother would be endangered if the fetus were carried to term;

(12) Inpatient psychiatric hospital services for individuals under age twenty-one as defined in Title XIX of the federal Social Security Act (42 U.S.C. Section 1396d, et seq.);

(13) Outpatient surgical procedures, including presurgical diagnostic services performed in ambulatory surgical facilities which are licensed by the department of health and senior services of the state of Missouri; except, that such outpatient surgical services shall not include persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended, if exclusion of such persons is permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended;

(14) Personal care services which are medically oriented tasks having to do with a person's physical requirements, as opposed to housekeeping requirements, which enable a person to be treated by his or her physician on an outpatient rather than on an inpatient or residential basis in a hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be rendered by an individual not a member of the participant's family who is qualified to provide such services where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a licensed nurse. Persons eligible to receive personal care services shall be those persons who would otherwise require placement in a hospital, intermediate care facility, or skilled nursing facility. Benefits payable for personal care services shall not exceed for any one participant one hundred percent of the average statewide charge for care and treatment in an intermediate care facility for a comparable period of time. Such services, when delivered in a residential care facility or assisted living facility licensed under chapter 198 shall be authorized on a tier level based on the services the resident requires and the frequency of the services. A resident of such facility who qualifies for assistance under section 208.030 shall, at a minimum, if prescribed by a physician, qualify for the tier level with the fewest services. The rate paid to providers for each tier of service shall be set subject to appropriations. Subject to appropriations, each resident of such facility who qualifies for assistance under section 208.030 and meets the level of care required in this section shall, at a minimum, if prescribed by a physician, be authorized up to one hour of personal care services per day. Authorized units of personal care services shall not be reduced or tier level lowered unless an order approving such reduction or lowering is obtained from the resident's personal physician. Such authorized units of personal care services or tier level shall be transferred with such resident if he or she transfers to another such facility. Such provision shall terminate upon receipt of relevant waivers from the federal Department of Health and Human Services. If the Centers for Medicare and Medicaid Services determines that such provision does not comply with the state plan, this provision shall be null and void. The MO HealthNet division shall notify the revisor of statutes as to whether the relevant waivers are approved or a determination of noncompliance is made;

(15) Mental health services. The state plan for providing medical assistance under Title XIX of the Social Security Act, 42 U.S.C. Section 301, as amended, shall include the following mental health services when such services are provided by community mental health facilities operated by the department of mental health or designated by the department of mental health as a community mental health facility or as an alcohol and drug abuse facility or as a child-serving agency within the comprehensive children's mental health service system established in section 630.097. The department of mental health shall establish by administrative rule the definition and criteria for designation as a community mental health facility and for designation as an alcohol and drug abuse facility. Such mental health services shall include:

(a) Outpatient mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(b) Clinic mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(c) Rehabilitative mental health and alcohol and drug abuse services including home and community-based preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health or alcohol and drug abuse professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management. As used in this section, mental health professional and alcohol and drug abuse professional shall be defined by the department of mental health pursuant to duly promulgated rules. With respect to services established by this subdivision, the department of social services, MO HealthNet division, shall enter into an agreement with the department of mental health. Matching funds for outpatient mental health services, clinic mental health services, and rehabilitation services for mental health and alcohol and drug abuse shall be certified by the department of mental health to the MO HealthNet division. The agreement shall establish a mechanism for the joint implementation of the provisions of this subdivision. In addition, the agreement shall establish a mechanism by which rates for services may be jointly developed;

(16) Such additional services as defined by the MO HealthNet division to be furnished under waivers of federal statutory requirements as provided for and authorized by the federal Social Security Act (42 U.S.C. Section 301, et seq.) subject to appropriation by the general assembly;

(17) The services of an advanced practice registered nurse with a collaborative practice agreement to the extent that such services are provided in accordance with chapters 334 and 335, and regulations promulgated thereunder;

(18) Nursing home costs for participants receiving benefit payments under subdivision (4) of this subsection to reserve a bed for the participant in the nursing home during the time that the participant is absent due to admission to a hospital for services which cannot be performed on an outpatient basis, subject to the provisions of this subdivision:

(a) The provisions of this subdivision shall apply only if:

a. The occupancy rate of the nursing home is at or above ninety-seven percent of MO HealthNet certified licensed beds, according to the most recent quarterly census provided to the department of health and senior services which was taken prior to when the participant is admitted to the hospital; and

b. The patient is admitted to a hospital for a medical condition with an anticipated stay of three days or less;

(b) The payment to be made under this subdivision shall be provided for a maximum of three days per hospital stay;

(c) For each day that nursing home costs are paid on behalf of a participant under this subdivision during any period of six consecutive months such participant shall, during the same period of six consecutive months, be ineligible for payment of nursing home costs of two otherwise available temporary leave of absence days provided under subdivision (5) of this subsection; and

(d) The provisions of this subdivision shall not apply unless the nursing home receives notice from the participant or the participant's responsible party that the participant intends to

return to the nursing home following the hospital stay. If the nursing home receives such notification and all other provisions of this subsection have been satisfied, the nursing home shall provide notice to the participant or the participant's responsible party prior to release of the reserved bed;

(19) Prescribed medically necessary durable medical equipment. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(20) Hospice care. As used in this subdivision, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(21) Prescribed medically necessary dental services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(22) Prescribed medically necessary optometric services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(23) Blood clotting products-related services. For persons diagnosed with a bleeding disorder, as defined in section 338.400, reliant on blood clotting products, as defined in section 338.400, such services include:

(a) Home delivery of blood clotting products and ancillary infusion equipment and supplies, including the emergency deliveries of the product when medically necessary;

(b) Medically necessary ancillary infusion equipment and supplies required to administer the blood clotting products; and

(c) Assessments conducted in the participant's home by a pharmacist, nurse, or local home health care agency trained in bleeding disorders when deemed necessary by the participant's treating physician;

(24) The MO HealthNet division shall, by January 1, 2008, and annually thereafter, report the status of MO HealthNet provider reimbursement rates as compared to one hundred percent of the Medicare reimbursement rates and compared to the average dental reimbursement rates paid by third-party payors licensed by the state. The MO HealthNet division shall, by July 1, 2008, provide to the general assembly a four-year plan to achieve parity with Medicare reimbursement rates and for third-party payor average dental reimbursement rates. Such plan shall be subject to appropriation and the division shall include in its annual budget request to the governor the necessary funding needed to complete the four-year plan developed under this subdivision.

2. Additional benefit payments for medical assistance shall be made on behalf of those eligible needy children, pregnant women and blind persons with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the MO HealthNet division, unless otherwise hereinafter provided, for the following:

- (1) Dental services;
- (2) Services of podiatrists as defined in section 330.010;
- (3) Optometric services as defined in section 336.010;
- (4) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids, and wheelchairs;

(5) Hospice care. As used in this subdivision, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(6) Comprehensive day rehabilitation services beginning early posttrauma as part of a coordinated system of care for individuals with disabling impairments. Rehabilitation services must be based on an individualized, goal-oriented, comprehensive and coordinated treatment plan developed, implemented, and monitored through an interdisciplinary assessment designed to restore an individual to optimal level of physical, cognitive, and behavioral function. The MO HealthNet division shall establish by administrative rule the definition and criteria for designation of a comprehensive day rehabilitation service facility, benefit limitations and payment mechanism. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this subdivision shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

3. The MO HealthNet division may require any participant receiving MO HealthNet benefits to pay part of the charge or cost until July 1, 2008, and an additional payment after July 1, 2008, as defined by rule duly promulgated by the MO HealthNet division, for all covered services except for those services covered under subdivisions (14) and (15) of subsection 1 of this section and sections 208.631 to 208.657 to the extent and in the manner authorized by Title XIX of the federal Social Security Act (42 U.S.C. Section 1396, et seq.) and regulations thereunder. When substitution of a generic drug is permitted by the prescriber according to section 338.056, and a generic drug is substituted for a name-brand drug, the MO HealthNet division may not lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX of the federal Social Security Act. A provider of goods or services described under this section must collect from all participants the additional payment that may be required by the MO HealthNet division under authority granted herein, if the division exercises that authority, to remain eligible as a provider. Any payments made by participants under this section shall be in addition to and not in lieu of payments made by the state for goods or services described herein except the participant portion of the pharmacy professional dispensing fee shall be in addition to and not in lieu of payments to pharmacists. A provider may collect the co-payment at the time a service is provided or at a later date. A provider shall not refuse to provide a service if a participant is unable to pay a required payment. If it is the routine business practice of a provider to terminate future services to an individual with an unclaimed debt, the provider may include uncollected co-payments under this practice. Providers who elect not to undertake the

provision of services based on a history of bad debt shall give participants advance notice and a reasonable opportunity for payment. A provider, representative, employee, independent contractor, or agent of a pharmaceutical manufacturer shall not make co-payment for a participant. This subsection shall not apply to other qualified children, pregnant women, or blind persons. If the Centers for Medicare and Medicaid Services does not approve the [Missouri] MO HealthNet state plan amendment submitted by the department of social services that would allow a provider to deny future services to an individual with uncollected co-payments, the denial of services shall not be allowed. The department of social services shall inform providers regarding the acceptability of denying services as the result of unpaid co-payments.

4. The MO HealthNet division shall have the right to collect medication samples from participants in order to maintain program integrity.

5. Reimbursement for obstetrical and pediatric services under subdivision (6) of subsection 1 of this section shall be timely and sufficient to enlist enough health care providers so that care and services are available under the state plan for MO HealthNet benefits at least to the extent that such care and services are available to the general population in the geographic area, as required under subparagraph (a)(30)(A) of 42 U.S.C. Section 1396a and federal regulations promulgated thereunder.

6. Beginning July 1, 1990, reimbursement for services rendered in federally funded health centers shall be in accordance with the provisions of subsection 6402(c) and Section 6404 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations promulgated thereunder.

7. Beginning July 1, 1990, the department of social services shall provide notification and referral of children below age five, and pregnant, breast-feeding, or postpartum women who are determined to be eligible for MO HealthNet benefits under section 208.151 to the special supplemental food programs for women, infants and children administered by the department of health and senior services. Such notification and referral shall conform to the requirements of Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

8. Providers of long-term care services shall be reimbursed for their costs in accordance with the provisions of Section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. Section 1396a, as amended, and regulations promulgated thereunder.

9. Reimbursement rates to long-term care providers with respect to a total change in ownership, at arm's length, for any facility previously licensed and certified for participation in the MO HealthNet program shall not increase payments in excess of the increase that would result from the application of Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. Section 1396a (a)(13)(C).

10. The MO HealthNet division, may enroll qualified residential care facilities and assisted living facilities, as defined in chapter 198, as MO HealthNet personal care providers.

11. Any income earned by individuals eligible for certified extended employment at a sheltered workshop under chapter 178 shall not be considered as income for purposes of determining eligibility under this section.

**12. If the Missouri Medicaid audit and compliance unit changes any interpretation or application of the requirements for reimbursement for MO HealthNet services from the interpretation or application that has been applied previously by the state in any audit of a MO HealthNet provider, the Missouri Medicaid audit and compliance unit shall notify all affected MO HealthNet providers five business days before such change shall take effect. Failure of the Missouri Medicaid audit and compliance unit to notify a provider of such change shall entitle the provider to continue to receive and retain reimbursement until such notification is provided and shall waive any liability of such provider for recoupment or other loss of any payments previously made prior to the five business days after such notice has been sent. Each provider shall provide the Missouri Medicaid audit and compliance unit a valid email address and shall agree to receive communications electronically. The notification required under this section shall be delivered in writing by the United States Postal Service or electronic mail to each provider.**

**13. Nothing in this section shall be construed to abrogate or limit the department's statutory requirement to promulgate rules under chapter 536.**

**208.437. REIMBURSEMENT ALLOWANCE PERIOD — NOTIFICATION OF BALANCE DUE, WHEN — DELINQUENT PAYMENTS, PROCEDURE, BASIS FOR DENIAL OF LICENSURE — EXPIRATION DATE.** — 1. A Medicaid managed care organization reimbursement allowance period as provided in sections 208.431 to 208.437 shall be from the first day of July to the thirtieth day of June. The department shall notify each Medicaid managed care organization with a balance due on the thirtieth day of June of each year the amount of such balance due. If any managed care organization fails to pay its managed care organization reimbursement allowance within thirty days of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance may remain unpaid during an appeal.

2. Except as otherwise provided in this section, if any reimbursement allowance imposed under the provisions of sections 208.431 to 208.437 is unpaid and delinquent, the department of social services may compel the payment of such reimbursement allowance in the circuit court having jurisdiction in the county where the main offices of the Medicaid managed care organization are located. In addition, the director of the department of social services or the director's designee may cancel or refuse to issue, extend or reinstate a Medicaid contract agreement to any Medicaid managed care organization which fails to pay such delinquent reimbursement allowance required by sections 208.431 to 208.437 unless under appeal.

3. Except as otherwise provided in this section, failure to pay a delinquent reimbursement allowance imposed under sections 208.431 to 208.437 shall be grounds for denial, suspension or revocation of a license granted by the department of insurance, financial institutions and professional registration. The director of the department of insurance, financial institutions and professional registration may deny, suspend or revoke the license of a Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) which fails to pay a managed care organization's delinquent reimbursement allowance unless under appeal.

4. Nothing in sections 208.431 to 208.437 shall be deemed to effect or in any way limit the tax-exempt or nonprofit status of any Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) granted by state law.

5. Sections 208.431 to 208.437 shall expire on September 30, [2015] **2016**.

**208.480. FEDERAL REIMBURSEMENT ALLOWANCE EXPIRATION DATE.** — Notwithstanding the provisions of section 208.471 to the contrary, sections 208.453 to 208.480 shall expire on September 30, [2015] **2016**.

**208.482. DISPROPORTIONATE SHARE HOSPITAL PAYMENTS, RESTRICTION ON AUDIT RECOUPMENTS — EXPIRATION DATE.** — **1. The MO HealthNet division shall not recover disproportionate share hospital audit recoupments from any tier 1 safety net hospital, excluding department of mental health state operated psychiatric hospitals, for which an intergovernmental transfer was used for the nonfederal share of its disproportionate share hospital payments. General revenue funds shall not be used to offset any expenditure of funds to pay such recoupments to the federal government.**

**2. The provisions of this section shall expire on September 30, 2022.**

**338.550. EXPIRATION DATE OF TAX, WHEN.** — 1. The pharmacy tax required by sections 338.500 to 338.550 shall expire ninety days after any one or more of the following conditions are met:

(1) The aggregate dispensing fee as appropriated by the general assembly paid to pharmacists per prescription is less than the fiscal year 2003 dispensing fees reimbursement amount; or

(2) The formula used to calculate the reimbursement as appropriated by the general assembly for products dispensed by pharmacies is changed resulting in lower reimbursement to the pharmacist in the aggregate than provided in fiscal year 2003; or

(3) September 30, [2015] **2016**.

The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection. The provisions of sections 338.500 to 338.550 shall not apply to pharmacies domiciled or headquartered outside this state which are engaged in prescription drug sales that are delivered directly to patients within this state via common carrier, mail or a carrier service.

2. Sections 338.500 to 338.550 shall expire on September 30, [2015] **2016**.

**633.401. DEFINITIONS — ASSESSMENT IMPOSED, FORMULA — RATES OF PAYMENT — FUND CREATED, USE OF MONEYS — RECORD-KEEPING REQUIREMENTS — REPORT — APPEAL PROCESS — RULEMAKING AUTHORITY — EXPIRATION DATE.** — 1. For purposes of this section, the following terms mean:

(1) "Engaging in the business of providing health benefit services", accepting payment for health benefit services;

(2) "Intermediate care facility for the intellectually disabled", a private or department of mental health facility which admits persons who are intellectually disabled or developmentally disabled for residential habilitation and other services pursuant to chapter 630. Such term shall include habilitation centers and private or public intermediate care facilities for the intellectually disabled that have been certified to meet the conditions of participation under 42 CFR, Section 483, Subpart 1;

(3) "Net operating revenues from providing services of intermediate care facilities for the intellectually disabled" shall include, without limitation, all moneys received on account of such services pursuant to rates of reimbursement established and paid by the department of social services, but shall not include charitable contributions, grants, donations, bequests and income from nonservice related fund-raising activities and government deficit financing, contractual allowance, discounts or bad debt;

(4) "Services of intermediate care facilities for the intellectually disabled" has the same meaning as the term "services of intermediate care facilities for the mentally retarded", as used in Title 42 United States Code, Section 1396b(w)(7)(A)(iv), as amended, and as such qualifies as a class of health care services recognized in federal Public Law 102-234, the Medicaid Voluntary Contribution and Provider Specific Tax Amendment of 1991.

2. Beginning July 1, 2008, each provider of services of intermediate care facilities for the intellectually disabled shall, in addition to all other fees and taxes now required or paid, pay assessments on their net operating revenues for the privilege of engaging in the business of providing services of the intermediate care facilities for the intellectually disabled or developmentally disabled in this state.

3. Each facility's assessment shall be based on a formula set forth in rules and regulations promulgated by the department of mental health.

4. For purposes of determining rates of payment under the medical assistance program for providers of services of intermediate care facilities for the intellectually disabled, the assessment imposed pursuant to this section on net operating revenues shall be a reimbursable cost to be reflected as timely as practicable in rates of payment applicable within the assessment period, contingent, for payments by governmental agencies, on all federal approvals necessary by federal law and regulation for federal financial participation in payments made for beneficiaries eligible for medical assistance under Title XIX of the federal Social Security Act.

5. Assessments shall be submitted by or on behalf of each provider of services of intermediate care facilities for the intellectually disabled on a monthly basis to the director of the department of mental health or his or her designee and shall be made payable to the director of the department of revenue.

6. In the alternative, a provider may direct that the director of the department of social services offset, from the amount of any payment to be made by the state to the provider, the amount of the assessment payment owed for any month.

7. Assessment payments shall be deposited in the state treasury to the credit of the "Intermediate Care Facility Intellectually Disabled Reimbursement Allowance Fund", which is hereby created in the state treasury. All investment earnings of this fund shall be credited to the fund. Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in the intermediate care facility intellectually disabled reimbursement allowance fund at the end of the biennium shall not revert to the general revenue fund but shall accumulate from year to year. The state treasurer shall maintain records that show the amount of money in the fund at any time and the amount of any investment earnings on that amount.

8. Each provider of services of intermediate care facilities for the intellectually disabled shall keep such records as may be necessary to determine the amount of the assessment for which it is liable under this section. On or before the forty-fifth day after the end of each month commencing July 1, 2008, each provider of services of intermediate care facilities for the intellectually disabled shall submit to the department of social services a report on a cash basis that reflects such information as is necessary to determine the amount of the assessment payable for that month.

9. Every provider of services of intermediate care facilities for the intellectually disabled shall submit a certified annual report of net operating revenues from the furnishing of services of intermediate care facilities for the intellectually disabled. The reports shall be in such form as may be prescribed by rule by the director of the department of mental health. Final payments of the assessment for each year shall be due for all providers of services of intermediate care facilities for the intellectually disabled upon the due date for submission of the certified annual report.

10. The director of the department of mental health shall prescribe by rule the form and content of any document required to be filed pursuant to the provisions of this section.

11. Upon receipt of notification from the director of the department of mental health of a provider's delinquency in paying assessments required under this section, the director of the department of social services shall withhold, and shall remit to the director of the department of revenue, an assessment amount estimated by the director of the department of mental health from any payment to be made by the state to the provider.

12. In the event a provider objects to the estimate described in subsection 11 of this section, or any other decision of the department of mental health related to this section, the provider of services may request a hearing. If a hearing is requested, the director of the department of mental health shall provide the provider of services an opportunity to be heard and to present evidence bearing on the amount due for an assessment or other issue related to this section within thirty days after collection of an amount due or receipt of a request for a hearing, whichever is later. The director shall issue a final decision within forty-five days of the completion of the hearing. After reconsideration of the assessment determination and a final decision by the director of the department of mental health, an intermediate care facility for the intellectually disabled provider's appeal of the director's final decision shall be to the administrative hearing commission in accordance with sections 208.156 and 621.055.

13. Notwithstanding any other provision of law to the contrary, appeals regarding this assessment shall be to the circuit court of Cole County or the circuit court in the county in which the facility is located. The circuit court shall hear the matter as the court of original jurisdiction.

14. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any intermediate care facility for the intellectually disabled granted by state law.

15. The director of the department of mental health shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only

if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

16. The provisions of this section shall expire on September 30, [2015] **2016**.

Approved July 1, 2015

SB 231 [HCS SB 231]

**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 watercraft**

AN ACT to repeal sections 142.815, 144.030, and 306.100, RSMo, and to enact in lieu thereof four new sections relating to watercraft.

SECTION

- A. Enacting clause.
- 142.815. Exemptions allowed for nonhighway use.
- 144.030. Exemptions from state and local sales and use taxes.
- 306.100. Classification of vessels — equipment requirements.
- 306.910. Recreational water use — definitions — brochure, distribution, limitation on cost of.

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

**SECTION A. ENACTING CLAUSE.** — Sections 142.815, 144.030, and 306.100, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 142.815, 144.030, 306.100, and 306.910, to read as follows:

**142.815. EXEMPTIONS ALLOWED FOR NONHIGHWAY USE.** — 1. Motor fuel used for the following nonhighway purposes is exempt from the fuel tax imposed by this chapter, and a refund may be claimed by the consumer, except as provided for in subdivision (1) of this subsection, if the tax has been paid and no refund has been previously issued:

(1) Motor fuel used for nonhighway purposes including fuel for farm tractors or stationary engines owned or leased and operated by any person and used exclusively for agricultural purposes and including, beginning January 1, 2006, bulk sales of one hundred gallons or more of gasoline made to farmers and delivered by the ultimate vender to a farm location for agricultural purposes only. As used in this section, the term "farmer" shall mean any person engaged in farming in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010. At the discretion of the ultimate vender, the refund may be claimed by the ultimate vender on behalf of the consumer for sales made to farmers and to persons engaged in construction for agricultural purposes as defined in section 142.800. After December 31, 2000, the refund may be claimed only by the consumer and may not be claimed by the ultimate vender unless bulk sales of gasoline are made to a farmer after January 1, 2006, as provided in this subdivision and the farmer provides an exemption certificate to the ultimate vender, in which case the ultimate vender may make a claim for refund under section 142.824 but shall be liable for any erroneous refund;

(2) Kerosene sold for use as fuel to generate power in aircraft engines, whether in aircraft or for training, testing or research purposes of aircraft engines;

(3) Diesel fuel used as heating oil, or in railroad locomotives or any other motorized flanged-wheel rail equipment, or used for other nonhighway purposes other than as expressly exempted pursuant to another provision.

2. Subject to the procedural requirements and conditions set out in this chapter, the following uses are exempt from the tax imposed by section 142.803 on motor fuel, and a deduction or a refund may be claimed:

(1) Motor fuel for which proof of export is available in the form of a terminal-issued destination state shipping paper and which is either:

(a) Exported by a supplier who is licensed in the destination state or through the bulk transfer system;

(b) Removed by a licensed distributor for immediate export to a state for which all the applicable taxes and fees (however nominated in that state) of the destination state have been paid to the supplier, as a trustee, who is licensed to remit tax to the destination state; or which is destined for use within the destination state by the federal government for which an exemption has been made available by the destination state subject to procedural rules and regulations promulgated by the director; or

(c) Acquired by a licensed distributor and which the tax imposed by this chapter has previously been paid or accrued either as a result of being stored outside of the bulk transfer system immediately prior to loading or as a diversion across state boundaries properly reported in conformity with this chapter and was subsequently exported from this state on behalf of the distributor; The exemption pursuant to paragraph (a) of this subdivision shall be claimed by a deduction on the report of the supplier which is otherwise responsible for remitting the tax upon removal of the product from a terminal or refinery in this state. The exemption pursuant to paragraphs (b) and (c) of this subdivision shall be claimed by the distributor, upon a refund application made to the director within three years. A refund claim may be made monthly or whenever the claim exceeds one thousand dollars;

(2) Undyed K-1 kerosene sold at retail through dispensers which have been designed and constructed to prevent delivery directly from the dispenser into a vehicle fuel supply tank, and undyed K-1 kerosene sold at retail through nonbarricaded dispensers in quantities of not more than twenty-one gallons for use other than for highway purposes. Exempt use of undyed kerosene shall be governed by rules and regulations of the director. If no rules or regulations are promulgated by the director, then the exempt use of undyed kerosene shall be governed by rules and regulations of the Internal Revenue Service. A distributor or supplier delivering to a retail facility shall obtain an exemption certificate from the owner or operator of such facility stating that its sales conform to the dispenser requirements of this subdivision. A licensed distributor, having obtained such certificate, may provide a copy to his or her supplier and obtain undyed kerosene without the tax levied by section 142.803. Having obtained such certificate in good faith, such supplier shall be relieved of any responsibility if the fuel is later used in a taxable manner. An ultimate vendor who obtained undyed kerosene upon which the tax levied by section 142.803 had been paid and makes sales qualifying pursuant to this subsection may apply for a refund of the tax pursuant to application, as provided in section 142.818, to the director provided the ultimate vendor did not charge such tax to the consumer;

(3) Motor fuel sold to the United States or any agency or instrumentality thereof. This exemption shall be claimed as provided in section 142.818;

(4) Motor fuel used solely and exclusively as fuel to propel motor vehicles on the public roads and highways of this state when leased or owned and when being operated by a federally recognized Indian tribe in the performance of essential governmental functions, such as providing police, fire, health or water services. The exemption for use pursuant to this subdivision shall be made available to the tribal government upon a refund application stating that the motor fuel was purchased for the exclusive use of the tribe in performing named essential governmental services;

(5) That portion of motor fuel used to operate equipment attached to a motor vehicle, if the motor fuel was placed into the fuel supply tank of a motor vehicle that has a common fuel

reservoir for travel on a highway and for the operation of equipment, or if the motor fuel was placed in a separate fuel tank and used only for the operation of auxiliary equipment. The exemption for use pursuant to this subdivision shall be claimed by a refund claim filed by the consumer who shall provide evidence of an allocation of use satisfactory to the director;

(6) Motor fuel acquired by a consumer out-of-state and carried into this state, retained within and consumed from the same vehicle fuel supply tank within which it was imported, except interstate motor fuel users;

(7) Motor fuel which was purchased tax-paid and which was lost or destroyed as a direct result of a sudden and unexpected casualty or which had been accidentally contaminated so as to be unsalable as highway fuel as shown by proper documentation as required by the director. The exemption pursuant to this subdivision shall be refunded to the person or entity owning the motor fuel at the time of the contamination or loss. Such person shall notify the director in writing of such event and the amount of motor fuel lost or contaminated within ten days from the date of discovery of such loss or contamination, and within thirty days after such notice, shall file an affidavit sworn to by the person having immediate custody of such motor fuel at the time of the loss or contamination, setting forth in full the circumstances and the amount of the loss or contamination and such other information with respect thereto as the director may require;

(8) Dyed diesel fuel or dyed kerosene used for an exempt purpose. This exemption shall be claimed as follows:

(a) A supplier or importer shall take a deduction against motor fuel tax owed on their monthly report for those gallons of dyed diesel fuel or dyed kerosene imported or removed from a terminal or refinery destined for delivery to a point in this state as shown on the shipping papers;

(b) This exemption shall be claimed by a deduction on the report of the supplier which is otherwise responsible for remitting the tax on removal of the product from a terminal or refinery in this state;

(c) This exemption shall be claimed by the distributor, upon a refund application made to the director within three years. A refund claim may be made monthly or whenever the claim exceeds one thousand dollars[.];

**(9) Motor fuel delivered to any marina within this state that sells such fuel solely for use in any watercraft, as such term is defined in section 306.010, and not accessible to other motor vehicles, is exempt from the fuel tax imposed by this chapter. Any motor fuel distributor that delivers motor fuel to any marina in this state for use solely in any watercraft, as such term is defined in section 306.010, may claim the exemption provided in this subsection. Any motor fuel customer who purchases motor fuel for use in any watercraft, as such term is defined in section 306.010, at a location other than a marina within this state may claim the exemption provided in this subsection by filing a claim for refund of the fuel tax.**

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

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

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

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

(4) Motor vehicles registered in excess of fifty-four thousand pounds, and the trailers pulled by such motor vehicles, that are actually used in the normal course of business to haul property on the public highways of the state, and that are capable of hauling loads commensurate with the motor vehicle's registered weight; and the materials, replacement parts, and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of such vehicles. For purposes of this subdivision, "motor vehicle" and "public highway" shall have the meaning as ascribed in section 390.020;

(5) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a usable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

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

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

(8) Animals or poultry used for breeding or feeding purposes, or captive wildlife;

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

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

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

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

(13) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (5) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200. There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

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

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(16) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

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

(18) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation, provided, however, that a municipality or other political subdivision may enter into revenue-sharing agreements with private persons, firms, or corporations providing goods or services, including management services, in or for the place of amusement, entertainment or recreation, games or athletic events, and provided further that nothing in this subdivision shall exempt from tax any amounts retained by any private person, firm, or corporation under such revenue-sharing agreement;

(19) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including

hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales or rental of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales or rental of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased or rented by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales or rental of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities, and drugs required by the Food and Drug Administration to meet the over-the-counter drug product labeling requirements in 21 CFR 201.66, or its successor, as prescribed by a health care practitioner licensed to prescribe;

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

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

(22) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530;

(23) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers, and any freight charges on any exempt item. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement

parts thereon and any accessories for and upgrades to such farm machinery and equipment, rotary mowers used exclusively for agricultural purposes, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

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

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

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

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

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

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

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

(28) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such agency as provided pursuant to the compact;

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

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

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

(32) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (5) of this subsection;

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

(34) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

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

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

(37) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

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

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

(38) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100;

(39) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(40) All purchases by a sports complex authority created under section 64.920, and all sales of utilities by such authority at the authority's cost that are consumed in connection with the operation of a sports complex leased to a professional sports team;

(41) All materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories;

(42) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or similar places of business for use in the normal course of business and money received by a shooting range or similar places of business from patrons and held by a shooting range or similar place of business for redistribution to patrons at the conclusion of a shooting event;

**(43) All sales of motor fuel, as defined in section 142.800, used in any watercraft, as defined in section 306.010.**

3. Any ruling, agreement, or contract, whether written or oral, express or implied, between a person and this state's executive branch, or any other state agency or department, stating, agreeing, or ruling that such person is not required to collect sales and use tax in this state despite the presence of a warehouse, distribution center, or fulfillment center in this state that is owned or operated by the person or an affiliated person shall be null and void unless it is specifically approved by a majority vote of each of the houses of the general assembly. For purposes of this subsection, an "affiliated person" means any person that is a member of the same controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code of 1986, as amended, as the vendor or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the vendor as a corporation that is a member of the same controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code, as amended.

**306.100. CLASSIFICATION OF VESSELS — EQUIPMENT REQUIREMENTS.** — 1. For the purpose of this section, vessels shall be divided into four classes as follows:

- (1) Class A, less than sixteen feet in length;
- (2) Class 1, at least sixteen and less than twenty-six feet in length;
- (3) Class 2, at least twenty-six and less than forty feet in length;
- (4) Class 3, forty feet and over.

2. All vessels shall display from sunset to sunrise the following lights when under way, and during such time no other lights, continuous spotlights or docking lights, or other nonprescribed lights shall be exhibited:

- (1) Vessels of classes A and 1:
  - (a) A bright white light aft to show all around the horizon;
  - (b) A combined light in the forepart of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points (22 1/2 degrees) abaft the beam on their respective sides;
- (2) Vessels of classes 2 and 3:
  - (a) A bright white light in the forepart of the vessel as near the stem as practicable, so constructed as to show the unbroken light over an arc of the horizon of twenty points (225 degrees) of the compass, so fixed as to throw the light ten points (112 1/2 degrees) on each side of the vessel; namely, from right ahead to two points (22 1/2 degrees) abaft the beam on either side;

(b) A bright white light aft to show all around the horizon and higher than the white light forward;

(c) On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points (112 1/2 degrees) of the compass, so fixed as to throw the light from right ahead to two points (22 1/2 degrees) abaft the beam on the starboard side; on the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points (112 1/2 degrees) of the compass, so fixed as to throw the light from right ahead to two points (22 1/2 degrees) abaft the beam on the portside. The side lights shall be fitted with inboard screens so set as to prevent these lights from being seen across the bow;

(3) Vessels of classes A and 1 when propelled by sail alone shall exhibit the combined light prescribed by this section and a twelve point (135 degree) white light aft. Vessels of classes 2 and 3, when so propelled, shall exhibit the colored side lights, suitably screened, prescribed by this section and a twelve point (135 degree) white light aft;

(4) All vessels between the hours of sunset and sunrise that are not under way, moored at permanent dockage or attached to an immovable object on shore so that they do not extend more than fifty feet from the shore shall display one three-hundred-sixty-degree white light visible three hundred sixty degrees around the horizon;

(5) Every white light prescribed by this section shall be of such character as to be visible at a distance of at least two miles. Every colored light prescribed by this section shall be of such character as to be visible at a distance of at least one mile. The word "visible" in this subsection, when applied to lights, shall mean visible on a dark night with clear atmosphere;

(6) When propelled by sail and machinery every vessel shall carry the lights required by this section for a motorboat propelled by machinery only.

3. Any watercraft not defined as a vessel shall, from sunset to sunrise, carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

4. Any vessel may carry and exhibit the lights required by the federal regulations for preventing collisions at sea, in lieu of the lights required by subsection 2 of this section.

5. All other watercraft over sixty-five feet in length and those propelled solely by wind effect on the sail shall display lights prescribed by federal regulations.

6. Any watercraft used by a person engaged in the act of sport fishing is not required to display any lights required by this section if no other vessel is within the immediate vicinity of the first vessel, the vessel is using an electric trolling motor and the vessel is within fifty feet of the shore.

7. Every vessel, except those in class A, shall have on board at least one wearable personal flotation device of type I, II or III for each person on board and each person being towed who is not wearing one. Every such vessel shall also have on board at least one type IV throwable personal flotation device.

8. All class A motorboats and all watercraft traveling on the waters of this state shall have on board at least one type I, II, III or IV personal flotation device for each person on board and each person being towed who is not wearing one.

9. All lifesaving devices required by subsections 7 and 8 of this section shall be United States Coast Guard approved, in serviceable condition and so placed as to be readily accessible.

10. Every vessel which is carrying or using flammable or toxic fluid in any enclosure for any purpose, and which is not an entirely open vessel, shall have an efficient natural or mechanical ventilation system which must be capable of removing resulting gases prior to and during the time the vessel is occupied by any person.

11. Motorboats shall carry on board at least the following United States Coast Guard approved fire extinguishers:

(1) Every class A and every class 1 motorboat carrying or using gasoline or any other flammable or toxic fluid, one B1 type fire extinguisher;

(2) Every class 2 motorboat[, one B2 or two B1 type fire extinguishers;]:

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- (a) Two B1 type fire extinguishers; or
  - (b) One B2 type fire extinguisher; or
  - (c) A fixed fire extinguishing system and one B1 type fire extinguisher; and
- (3) Every class 3 motorboat:
- (a) Three B1 type fire extinguishers; or
  - (b) One B2 type and one B1 type fire extinguisher; or
  - (c) A fixed fire extinguishing system and one B2 type fire extinguisher; or
  - (d) A fixed fire extinguishing system and two B1 type fire extinguishers.
12. All class 1 and 2 motorboats and vessels shall have a sounding device. All class 3 motorboats and vessels shall have at least a sounding device and one bell.
13. No person shall operate any watercraft which is not equipped as required by this section.
14. A water patrol division officer may direct the operator of any watercraft being operated without sufficient personal flotation devices, fire-fighting devices or in an overloaded or other unsafe condition or manner to take whatever immediate and reasonable steps are necessary for the safety of those aboard when, in the judgment of the officer, such operation creates a hazardous condition. The officer may direct the operator to return the watercraft to the nearest safe mooring and to remain there until the situation creating the hazardous condition is corrected.
15. A water patrol division officer may remove any unmanned or unattended watercraft from the water when, in the judgment of the officer, the watercraft creates a hazardous condition.
16. Nothing in this section shall prohibit the use of additional specialized lighting used in the act of sport fishing.

**306.910. RECREATIONAL WATER USE — DEFINITIONS — BROCHURE, DISTRIBUTION, LIMITATION ON COST OF. — 1. For purposes of this section, the following terms shall mean:**

- (1) "Outfitter", any individual, group, corporation, or other business entity which is a registered member of the Missouri Canoe and Floaters Association;
- (2) "Water patrol division", the water patrol division of the state highway patrol;
- (3) "Watercraft", any canoe, kayak, raft, innertube, or other flotation device propelled by the use of paddles, oars, or other nonmotorized means of propulsion.

2. By January 1, 2016, the water patrol division shall develop an informational brochure regarding the laws, regulations, and associated penalties relating to recreational water use as they pertain to individuals participating in the recreational use of the state's streams or rivers.

3. The water patrol division shall distribute the informational brochures developed under this section to all campgrounds and outfitters that rent or provide watercraft for use on a stream or river.

4. No more than one hundred thousand dollars shall be expended on the development and printing of the informational brochure under this section.

5. The water patrol division shall distribute the informational brochures developed under this section to all county commissioners in this state.

Approved June 24, 2015

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SB 239 [SS SB 239]

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

**Creates a statutory cause of action for damages against health care providers**

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AN ACT to repeal sections 1.010, 538.205, and 538.210, RSMo, and to enact in lieu thereof three new sections relating to a statutory cause of action against healthcare providers.

SECTION

- A. Enacting clause.  
 1.010. Common law in force — effect on statutes — failure to render health care services, no common law cause of action.  
 538.205. Definitions.  
 538.210. No common law cause of action — limitation on noneconomic damages — jury not to be informed of limit — limit — punitive damages, requirements — annual increase on damages limit, amount — nonseverability clause.

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

**SECTION A. ENACTING CLAUSE.** — Sections 1.010, 538.205, and 538.210, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 1.010, 538.205, and 538.210, to read as follows:

**1.010. COMMON LAW IN FORCE — EFFECT ON STATUTES — FAILURE TO RENDER HEALTH CARE SERVICES, NO COMMON LAW CAUSE OF ACTION.** — **1.** The common law of England and all statutes and acts of parliament made prior to the fourth year of the reign of James the First, of a general nature, which are not local to that kingdom and not repugnant to or inconsistent with the Constitution of the United States, the constitution of this state, or the statute laws in force for the time being, are the rule of action and decision in this state, any custom or usage to the contrary notwithstanding, but no act of the general assembly or law of this state shall be held to be invalid, or limited in its scope or effect by the courts of this state, for the reason that it is in derogation of, or in conflict with, the common law, or with such statutes or acts of parliament; but all acts of the general assembly, or laws, shall be liberally construed, so as to effectuate the true intent and meaning thereof.

**2.** The general assembly expressly excludes from this section the common law of England as it relates to claims arising out of the rendering of or failure to render health care services by a health care provider, it being the intent of the general assembly to replace those claims with statutory causes of action.

**538.205. DEFINITIONS.** — As used in sections 538.205 to 538.230, the following terms shall mean:

- (1) "Catastrophic personal injury", a physical injury resulting in:
  - (a) Quadriplegia defined as the permanent loss of functional use of all four limbs;
  - (b) Paraplegia defined as the permanent loss of functional use of two limbs;
  - (c) Loss of two or more limbs;
  - (d) An injury to the brain that results in permanent cognitive impairment resulting in the permanent inability to make independent decisions or engage in one or more of the following activities of daily living: eating, dressing, bathing, toileting, transferring, and walking;
  - (e) An injury that causes irreversible failure of one or more major organ systems; or
  - (f) Vision loss such that the patient's central visual acuity is no more than twenty/two-hundred in the better eye with the best correction or whose field of vision in the better eye is restricted to a degree that its widest diameter subtends an angle no greater than twenty degrees;
- (2) "Economic damages", damages arising from pecuniary harm including, without limitation, medical damages, and those damages arising from lost wages and lost earning capacity;
- [(2)] (3) "Equitable share", the share of a person or entity in an obligation that is the same percentage of the total obligation as the person's or entity's allocated share of the total fault, as found by the trier of fact;

[3] (4) "Future damages", damages that the trier of fact finds will accrue after the damages findings are made;

[4] (5) "Health care provider", any physician, hospital, health maintenance organization, ambulatory surgical center, long-term care facility including those licensed under chapter 198, dentist, registered or licensed practical nurse, optometrist, podiatrist, pharmacist, chiropractor, professional physical therapist, psychologist, physician-in-training, and any other person or entity that provides health care services under the authority of a license or certificate;

[5] (6) "Health care services", any services that a health care provider renders to a patient in the ordinary course of the health care provider's profession or, if the health care provider is an institution, in the ordinary course of furthering the purposes for which the institution is organized. Professional services shall include, but are not limited to, transfer to a patient of goods or services incidental or pursuant to the practice of the health care provider's profession or in furtherance of the purposes for which an institutional health care provider is organized;

[6] (7) "Medical damages", damages arising from reasonable expenses for necessary drugs, therapy, and medical, surgical, nursing, x-ray, dental, custodial and other health and rehabilitative services;

[7] (8) "Noneconomic damages", damages arising from nonpecuniary harm including, without limitation, pain, suffering, mental anguish, inconvenience, physical impairment, disfigurement, loss of capacity to enjoy life, and loss of consortium but shall not include punitive damages;

[8] (9) "Past damages", damages that have accrued when the damages findings are made;

[9] (10) "Physician employee", any person or entity who works for hospitals for a salary or under contract and who is covered by a policy of insurance or self-insurance by a hospital for acts performed at the direction or under control of the hospital;

[10] (11) "Punitive damages", damages intended to punish or deter willful, wanton or malicious misconduct, including exemplary damages and damages for aggravating circumstances;

[11] (12) "Self-insurance", a formal or informal plan of self-insurance or no insurance of any kind.

**538.210. NO COMMON LAW CAUSE OF ACTION — LIMITATION ON NONECONOMIC DAMAGES — JURY NOT TO BE INFORMED OF LIMIT — LIMIT — PUNITIVE DAMAGES, REQUIREMENTS — ANNUAL INCREASE ON DAMAGES LIMIT, AMOUNT — NONSEVERABILITY CLAUSE. — 1. A statutory cause of action for damages against a health care provider for personal injury or death arising out of the rendering of or failure to render health care services is hereby created, replacing any such common law cause of action. The elements of such cause of action are that the health care provider failed to use that degree of skill and learning ordinarily used under the same or similar circumstances by members of the defendant's profession and that such failure directly caused or contributed to cause the plaintiff's injury or death.**

**2. (1) In any action against a health care provider for damages for personal injury [or death] arising out of the rendering of or the failure to render health care services, no plaintiff shall recover more than [three] four hundred [fifty] thousand dollars for noneconomic damages irrespective of the number of defendants.**

**(2) Notwithstanding the provisions of subdivision (1) of this subsection, in any action against a health care provider for damages for a catastrophic personal injury arising out of the rendering or failure to render health care services, no plaintiff shall recover more than seven hundred thousand dollars for noneconomic damages irrespective of the number of defendants.**

**(3) In any action against a health care provider for damages for death arising out of the rendering of or the failure to render health care services, no plaintiff shall recover**

**more than seven hundred thousand dollars for noneconomic damages irrespective of the number of defendants.**

[2.] **3.** (1) Such limitation shall also apply to any individual or entity, or their employees or agents that provide, refer, coordinate, consult upon, or arrange for the delivery of health care services to the plaintiff; and

(2) Who is a defendant in a lawsuit brought against a health care provider under this chapter, or who is a defendant in any lawsuit that arises out of the rendering of or the failure to render health care services.

(3) No individual or entity whose liability is limited by the provisions of this chapter shall be liable to any plaintiff based on the actions or omissions of any other entity or person who is not an employee of such individual or entity whose liability is limited by the provisions of this chapter.

Such limitation shall apply to all claims for contribution.

[3.] **4.** In any action against a health care provider for damages for personal injury or death arising out of the rendering of or the failure to render health care services, where the trier of fact is a jury, such jury shall not be instructed by the court with respect to the limitation on an award of noneconomic damages, nor shall counsel for any party or any person providing testimony during such proceeding in any way inform the jury or potential jurors of such limitation.

[4.] **5.** For purposes of sections 538.205 to 538.230, any spouse claiming damages for loss of consortium of their spouse shall be considered to be the same plaintiff as their spouse.

[5.] **6.** Any provision of law or court rule to the contrary notwithstanding, an award of punitive damages against a health care provider governed by the provisions of sections 538.205 to 538.230 shall be made only upon a showing by a plaintiff that the health care provider demonstrated willful, wanton or malicious misconduct with respect to his actions which are found to have injured or caused or contributed to cause the damages claimed in the petition.

[6.] **7.** For purposes of sections 538.205 to 538.230, all individuals and entities asserting a claim for a wrongful death under section 537.080 shall be considered to be one plaintiff.

**8. The limitations on awards for noneconomic damages provided for in this section shall be increased by one and seven-tenths percent on an annual basis effective January first of each year. The current value of the limitation shall be calculated by the director of the department of insurance, who shall furnish that value to the secretary of state, who shall publish such value in the Missouri Register on the first business day following January first, but the value shall otherwise be exempt from the provisions of section 536.021.**

**9. In any claim for damages under this chapter, and upon post-trial motion following a jury verdict with noneconomic damages exceeding four hundred thousand dollars, the trial court shall determine whether the limitation in subsection 2 of this section shall apply based on the severity of the most severe injuries.**

**10. If a court of competent jurisdiction enters a final judgment on the merits that is not subject to appeal and that declares any provision or part of either section 1.010 or this section to be unconstitutional or unenforceable, then section 1.010 and this section, as amended by this act and in their entirety, are invalid and shall have no legal effect as of the date of such judgment, and this act, including its repealing clause, shall likewise be invalid and of no legal effect. In such event, the versions of sections 1.010 and this section that were in effect prior to the enactment of this act shall remain in force.**

Approved May 7, 2015

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SB 244 [HCS SB 244]

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

**Creates the Senior Savings Protection Act**

AN ACT to amend chapter 409, RSMo, by adding thereto seven new sections relating to the financial exploitation of certain elderly and disabled individuals.

**SECTION**

- A. Enacting clause.
- 409.600. Citation of law.
- 409.605. Definitions.
- 409.610. Notification of agencies and family members.
- 409.615. Refusal of request for disbursement, when — expiration.
- 409.620. Immunity from liability, when.
- 409.625. Records, provided to agencies or law enforcement, when.
- 409.630. Website for training resources to prevent and detect financial exploitation.

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

**SECTION A. ENACTING CLAUSE.** — Chapter 409, RSMo, is amended by adding thereto seven new sections, to be known as sections 409.600, 409.605, 409.610, 409.615, 409.620, 409.625, and 409.630, to read as follows:

**409.600. CITATION OF LAW.** — Sections 409.600 to 409.630 may be cited as the "Senior Savings Protection Act".

**409.605. DEFINITIONS.** — As used in sections 409.600 to 409.630, the following terms shall mean:

- (1) "Agencies", the department of health and senior services and the commissioner of securities;
- (2) "Agent", shall have the same meaning as in section 409.1-102;
- (3) "Broker-dealer", shall have the same meaning as in section 409.1-102;
- (4) "Financial exploitation", the wrongful or unauthorized taking, withholding, appropriation, or use of money, real property, or personal property of a qualified adult;
- (5) "Immediate family member", a spouse, child, parent, or sibling of a qualified adult;
- (6) "Qualified adult":
  - (a) A person sixty years of age or older; or
  - (b) A person who:
    - a. Has a disability as defined in section 192.2005; and
    - b. Is between the ages of eighteen and fifty-nine.
- (7) "Qualified individual", a person associated with a broker-dealer who serves in a supervisory, compliance, or legal capacity as part of his or her job.

**409.610. NOTIFICATION OF AGENCIES AND FAMILY MEMBERS.** — If a qualified individual reasonably believes that financial exploitation of a qualified adult has occurred, has been attempted, or is being attempted, the qualified individual may notify the agencies. Subsequent to notifying the agencies, an agent or qualified individual may notify an immediate family member, legal guardian, conservator, co-trustee, successor trustee, or agent under a power of attorney of the qualified adult of such belief.

**409.615. REFUSAL OF REQUEST FOR DISBURSEMENT, WHEN — EXPIRATION. — 1.** A qualified individual may refuse a request for disbursement from the account of a qualified adult, or an account on which a qualified adult is a beneficiary or beneficial owner, if:

(1) The qualified individual reasonably believes that the requested disbursement will result in financial exploitation of the qualified adult; and

(2) The broker-dealer or qualified individual:

(a) Within two business days makes a reasonable effort to notify all parties authorized to transact business on the account orally or in writing, unless such parties are reasonably believed to have engaged in suspected or attempted financial exploitation of the qualified adult; and

(b) Within three business days notifies the agencies.

2. Any refusal of a disbursement as authorized by this section shall expire upon the sooner of:

(1) The time when the broker-dealer or qualified individual reasonably believes that the disbursement will not result in financial exploitation of the qualified adult; or

(2) Ten business days after the initial refusal of disbursement by the qualified individual.

3. A court of competent jurisdiction may enter an order extending the refusal of a disbursement or any other protective relief.

**409.620. IMMUNITY FROM LIABILITY, WHEN. —** Notwithstanding any other provision of law to the contrary, a broker-dealer, agent, or qualified individual who, in good faith and exercising reasonable care, complies with sections 409.610 or 409.615 shall be immune from any civil liability under those sections.

**409.625. RECORDS, PROVIDED TO AGENCIES OR LAW ENFORCEMENT, WHEN. —** A broker-dealer may provide access to or copies of records that are relevant to the suspected financial exploitation of a qualified adult to the agencies or law enforcement. The records may include historical records or records relating to the most recent disbursement as well as disbursements that comprise the suspected financial exploitation of a qualified adult. All records made available to the agencies under this section shall not be considered a public record as defined under chapter 610.

**409.630. WEBSITE FOR TRAINING RESOURCES TO PREVENT AND DETECT FINANCIAL EXPLOITATION. —** No later than September 1, 2016, the commissioner of securities shall develop and make available a website that includes training resources to assist broker-dealers and agents in the prevention and detection of financial exploitation of qualified adults. Such resources shall include, at a minimum, indicators of financial exploitation of qualified adults and potential steps broker-dealers and agents may take to prevent suspected financial exploitation of qualified adults as authorized by law.

Approved June 12, 2015

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SB 254 [CCS#2 HCS SB 254]

**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 motor vehicle license plates**

AN ACT to repeal sections 301.130, 301.142, 301.196, 301.3097, 302.010, 302.525, 302.574, 478.007, 577.013, and 577.014, RSMo, section 302.060 as enacted by senate bill no. 491,

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ninety-seventh general assembly, second regular session, section 302.304 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 302.309 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 577.001 as enacted by house bill no. 1371, ninety-seventh general assembly, second regular session, section 577.010 as enacted by house bill no. 1371, ninety-seventh general assembly, second regular session, and section 577.012 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and to enact in lieu thereof seventeen new sections relating to motor vehicles, with an effective date for certain sections and penalty provisions.

## SECTION

- A. Enacting clause.
- 301.130. License plates, required slogan and information — special plates — plates, how displayed — tabs to be used — rulemaking authority, procedure.
- 301.142. Definitions — plates for disabled and placard for windshield, issued when — physician statements, requirements — death of disabled person, effect — lost or stolen placard, replacement of, fee — recertification and review by director, when — penalties for certain fraudulent acts.
- 301.196. Transferors of interest in motor vehicles or trailers, notice to revenue, when, form — exceptions.
- 301.474. Korean Defense Service Medal, special license plates, application, fee.
- 301.3097. God Bless America special license plate, application, fee.
- 302.010. Definitions. Definitions.
- 302.060. Beginning January 1, 2017 — License not to be issued to whom, exceptions — reinstatement requirements.
- 302.304. Beginning January 1, 2017 — Notice of points — suspension or revocation of license, when, duration — reinstatement, condition, point reduction, fee — failure to maintain proof of financial responsibility, effect — point reduction prior to conviction, effect — surrender of license — reinstatement of license when drugs or alcohol involved, assignment recommendation, judicial review — fees for program — supplemental fees.
- 302.309. Beginning January 1, 2017 — Return of license, when — limited driving privilege, when granted, application, when denied — judicial review of denial by director of revenue — rulemaking.
- 302.525. Suspension or revocation, when effective, duration — restricted driving privilege — effect of suspension or revocation by court on charges arising out of same occurrence — revocation due to alcohol-related offenses, requirements. Suspension or revocation, when effective, duration — restricted driving privilege — effect of suspension or revocation by court on charges arising out of same occurrence — revocation due to alcohol-related offenses, requirements.
- 302.574. Beginning January 1, 2017 — Temporary permit issued by officer, when — report required, contents — revocation of license, procedure — reinstatement, when — fees — proof of interlock device, when — violations, penalty.
- 478.007. DWI, alternative disposition of cases, docket or court may be established — private probation services, when (Jackson County).
- 577.001. Beginning January 1, 2017 — Chapter definitions.
- 577.010. Beginning January 1, 2017 — Driving while intoxicated — sentencing restrictions.
- 577.012. Beginning January 1, 2017 — Driving with excessive blood alcohol content — sentencing restrictions.
- 577.013. Beginning January 1, 2017 — Boating while intoxicated — sentencing restrictions.
- 577.014. Beginning January 1, 2017 — Boating with excessive blood alcohol content — penalties — sentencing restrictions.
- B. Emergency clause .

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

**SECTION A. ENACTING CLAUSE.** — Sections 301.130, 301.142, 301.196, 301.3097, 302.010, 302.525, 302.574, 478.007, 577.013, and 577.014, RSMo, section 302.060 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 302.304 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 302.309 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 577.001 as enacted by house bill no. 1371, ninety-seventh general assembly, second regular session, section 577.010 as enacted by house bill no. 1371, ninety-seventh general assembly, second regular session, and section 577.012 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 301.130, 301.142, 301.196,

301.474, 301.3097, 302.010, 302.060, 302.304, 302.309, 302.525, 302.574, 478.007, 577.001, 577.010, 577.012, 577.013, and 577.014, to read as follows:

**301.130. LICENSE PLATES, REQUIRED SLOGAN AND INFORMATION — SPECIAL PLATES — PLATES, HOW DISPLAYED — TABS TO BE USED — RULEMAKING AUTHORITY, PROCEDURE.** — 1. The director of revenue, upon receipt of a proper application for registration, required fees and any other information which may be required by law, shall issue to the applicant a certificate of registration in such manner and form as the director of revenue may prescribe and a set of license plates, or other evidence of registration, as provided by this section.

Each set of license plates shall bear the name or abbreviated name of this state, the words "SHOW-ME STATE", the month and year in which the registration shall expire, and an arrangement of numbers or letters, or both, as shall be assigned from year to year by the director of revenue. The plates shall also contain fully reflective material with a common color scheme and design for each type of license plate issued pursuant to this chapter. The plates shall be clearly visible at night, and shall be aesthetically attractive. Special plates for qualified disabled veterans will have the "DISABLED VETERAN" wording on the license plates in preference to the words "SHOW- ME STATE" and special plates for members of the National Guard will have the "NATIONAL GUARD" wording in preference to the words "SHOW-ME STATE".

2. The arrangement of letters and numbers of license plates shall be uniform throughout each classification of registration. The director may provide for the arrangement of the numbers in groups or otherwise, and for other distinguishing marks on the plates.

3. All property-carrying commercial motor vehicles to be registered at a gross weight in excess of twelve thousand pounds, all passenger-carrying commercial motor vehicles, local transit buses, school buses, trailers, semitrailers, motorcycles, motortricycles, motorscooters and driveaway vehicles shall be registered with the director of revenue as provided for in subsection 3 of section 301.030, or with the state highways and transportation commission as otherwise provided in this chapter, but only one license plate shall be issued for each such vehicle, except as provided in this subsection. The applicant for registration of any property-carrying commercial vehicle registered at a gross weight in excess of twelve thousand pounds may request and be issued two license plates for such vehicle, and if such plates are issued, the director of revenue shall provide for distinguishing marks on the plates indicating one plate is for the front and the other is for the rear of such vehicle. The director may assess and collect an additional charge from the applicant in an amount not to exceed the fee prescribed for personalized license plates in subsection 1 of section 301.144.

4. The plates issued to manufacturers and dealers shall bear the letters and numbers as prescribed by section 301.560, and the director may place upon the plates other letters or marks to distinguish commercial motor vehicles and trailers and other types of motor vehicles.

5. No motor vehicle or trailer shall be operated on any highway of this state unless it shall have displayed thereon the license plate or set of license plates issued by the director of revenue or the state highways and transportation commission and authorized by section 301.140. Each such plate shall be securely fastened to the motor vehicle or trailer in a manner so that all parts thereof shall be plainly visible and reasonably clean so that the reflective qualities thereof are not impaired. Each such plate may be encased in a transparent cover so long as the plate is plainly visible and its reflective qualities are not impaired. License plates shall be fastened to all motor vehicles except trucks, tractors, truck tractors or truck- tractors licensed in excess of twelve thousand pounds on the front and rear of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up. The license plates on trailers, motorcycles, motortricycles and motorscooters shall be displayed on the rear of such vehicles **either horizontally or vertically**, with the letters and numbers [thereon right side up] **plainly visible**. The license plate on buses, other than school buses, and on trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds shall be displayed on the front of such vehicles not less than eight nor more than forty-eight inches above

the ground, with the letters and numbers thereon right side up or if two plates are issued for the vehicle pursuant to subsection 3 of this section, displayed in the same manner on the front and rear of such vehicles. The license plate or plates authorized by section 301.140, when properly attached, shall be prima facie evidence that the required fees have been paid.

6. (1) The director of revenue shall issue annually or biennially a tab or set of tabs as provided by law as evidence of the annual payment of registration fees and the current registration of a vehicle in lieu of the set of plates. Beginning January 1, 2010, the director may prescribe any additional information recorded on the tab or tabs to ensure that the tab or tabs positively correlate with the license plate or plates issued by the department of revenue for such vehicle. Such tabs shall be produced in each license bureau office.

(2) The vehicle owner to whom a tab or set of tabs is issued shall affix and display such tab or tabs in the designated area of the license plate, no more than one per plate.

(3) A tab or set of tabs issued by the director of revenue when attached to a vehicle in the prescribed manner shall be prima facie evidence that the registration fee for such vehicle has been paid.

(4) Except as otherwise provided in this section, the director of revenue shall issue plates for a period of at least six years.

(5) For those commercial motor vehicles and trailers registered pursuant to section 301.041, the plate issued by the highways and transportation commission shall be a permanent nonexpiring license plate for which no tabs shall be issued. Nothing in this section shall relieve the owner of any vehicle permanently registered pursuant to this section from the obligation to pay the annual registration fee due for the vehicle. The permanent nonexpiring license plate shall be returned to the highways and transportation commission upon the sale or disposal of the vehicle by the owner to whom the permanent nonexpiring license plate is issued, or the plate may be transferred to a replacement commercial motor vehicle when the owner files a supplemental application with the Missouri highways and transportation commission for the registration of such replacement commercial motor vehicle. Upon payment of the annual registration fee, the highways and transportation commission shall issue a certificate of registration or other suitable evidence of payment of the annual fee, and such evidence of payment shall be carried at all times in the vehicle for which it is issued.

(6) Upon the sale or disposal of any vehicle permanently registered under this section, or upon the termination of a lease of any such vehicle, the permanent nonexpiring plate issued for such vehicle shall be returned to the highways and transportation commission and shall not be valid for operation of such vehicle, or the plate may be transferred to a replacement vehicle when the owner files a supplemental application with the Missouri highways and transportation commission for the registration of such replacement vehicle. If a vehicle which is permanently registered under this section is sold, wrecked or otherwise disposed of, or the lease terminated, the registrant shall be given credit for any unused portion of the annual registration fee when the vehicle is replaced by the purchase or lease of another vehicle during the registration year.

7. The director of revenue and the highways and transportation commission may prescribe rules and regulations for the effective administration of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

8. Notwithstanding the provisions of any other law to the contrary, owners of motor vehicles other than apportioned motor vehicles or commercial motor vehicles licensed in excess of eighteen thousand pounds gross weight may apply for special personalized license plates. Vehicles licensed for eighteen thousand pounds that display special personalized license plates shall be subject to the provisions of subsections 1 and 2 of section 301.030.

9. No later than January 1, 2009, the director of revenue shall commence the reissuance of new license plates of such design as directed by the director consistent with the terms, conditions, and provisions of this section and this chapter. Except as otherwise provided in this section, in addition to all other fees required by law, applicants for registration of vehicles with license plates

that expire during the period of reissuance, applicants for registration of trailers or semitrailers with license plates that expire during the period of reissuance and applicants for registration of vehicles that are to be issued new license plates during the period of reissuance shall pay the cost of the plates required by this subsection. The additional cost prescribed in this subsection shall not be charged to persons receiving special license plates issued under section 301.073 or 301.443. Historic motor vehicle license plates registered pursuant to section 301.131 and specialized license plates are exempt from the provisions of this subsection. Except for new, replacement, and transfer applications, permanent nonexpiring license plates issued to commercial motor vehicles and trailers registered under section 301.041 are exempt from the provisions of this subsection.

**301.142. DEFINITIONS — PLATES FOR DISABLED AND PLACARD FOR WINDSHIELD, ISSUED WHEN — PHYSICIAN STATEMENTS, REQUIREMENTS — DEATH OF DISABLED PERSON, EFFECT — LOST OR STOLEN PLACARD, REPLACEMENT OF, FEE — RECERTIFICATION AND REVIEW BY DIRECTOR, WHEN — PENALTIES FOR CERTAIN FRAUDULENT ACTS.** — 1. As used in sections 301.141 to 301.143, the following terms mean:

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

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

(3) "Other authorized health care practitioner" includes advanced practice registered nurses licensed pursuant to chapter 335, physician assistants licensed pursuant to chapter 334, chiropractors licensed pursuant to chapter 331, podiatrists licensed pursuant to chapter 330, **assistant physicians, physical therapists licensed pursuant to chapter 334**, and optometrists licensed pursuant to chapter 336;

(4) "Physically disabled", a natural person who is blind, as defined in section 8.700, or a natural person with medical disabilities which prohibits, limits, or severely impairs one's ability to ambulate or walk, as determined by a licensed physician or other authorized health care practitioner as follows:

(a) The person cannot ambulate or walk fifty or less feet without stopping to rest due to a severe and disabling arthritic, neurological, orthopedic condition, or other severe and disabling condition; or

(b) The person cannot ambulate or walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or

(c) Is restricted by a respiratory or other disease to such an extent that the person's forced respiratory expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest; or

(d) Uses portable oxygen; or

(e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; or

(f) A person's age, in and of itself, shall not be a factor in determining whether such person is physically disabled or is otherwise entitled to disabled license plates and/or disabled windshield hanging placards within the meaning of sections 301.141 to 301.143;

(5) "Physician", a person licensed to practice medicine pursuant to chapter 334;

(6) "Physician's statement", a statement personally signed by a duly authorized person which certifies that a person is disabled as defined in this section;

(7) "Temporarily disabled person", a disabled person as defined in this section whose disability or incapacity is expected to last no more than one hundred eighty days;

(8) "Temporary windshield placard", a placard to be issued to persons who are temporarily disabled persons as defined in this section, certification of which shall be indicated on the physician's statement;

(9) "Windshield placard", a placard to be issued to persons who are physically disabled as defined in this section, certification of which shall be indicated on the physician's statement.

2. Other authorized health care practitioners may furnish to a disabled or temporarily disabled person a physician's statement for only those physical health care conditions for which such health care practitioner is legally authorized to diagnose and treat.

3. A physician's statement shall:

- (1) Be on a form prescribed by the director of revenue;
- (2) Set forth the specific diagnosis and medical condition which renders the person physically disabled or temporarily disabled as defined in this section;
- (3) Include the physician's or other authorized health care practitioner's license number; and
- (4) Be personally signed by the issuing physician or other authorized health care practitioner.

4. If it is the professional opinion of the physician or other authorized health care practitioner issuing the statement that the physical disability of the applicant, user, or member of the applicant's household is permanent, it shall be noted on the statement. Otherwise, the physician or other authorized health care practitioner shall note on the statement the anticipated length of the disability which period may not exceed one hundred eighty days. If the physician or health care practitioner fails to record an expiration date on the physician's statement, the director shall issue a temporary windshield placard for a period of thirty days.

5. A physician or other authorized health care practitioner who issues or signs a physician's statement so that disabled plates or a disabled windshield placard may be obtained shall maintain in such disabled person's medical chart documentation that such a certificate has been issued, the date the statement was signed, the diagnosis or condition which existed that qualified the person as disabled pursuant to this section and shall contain sufficient documentation so as to objectively confirm that such condition exists.

6. The medical or other records of the physician or other authorized health care practitioner who issued a physician's statement shall be open to inspection and review by such practitioner's licensing board, in order to verify compliance with this section. Information contained within such records shall be confidential unless required for prosecution, disciplinary purposes, or otherwise required to be disclosed by law.

7. Owners of motor vehicles who are residents of the state of Missouri, and who are physically disabled, owners of motor vehicles operated at least fifty percent of the time by a physically disabled person, or owners of motor vehicles used to primarily transport physically disabled members of the owner's household may obtain disabled person license plates. Such owners, upon application, accompanied by the documents and fees provided for in this section, a current physician's statement which has been issued within ninety days preceding the date the application is made and proof of compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles, shall be issued motor vehicle license plates for vehicles, other than commercial vehicles with a gross weight in excess of twenty-four thousand pounds, upon which shall be inscribed the international wheelchair accessibility symbol and the word "DISABLED" in addition to a combination of letters and numbers. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

8. The director shall further issue, upon request, to such applicant one, and for good cause shown, as the director may define by rule and regulations, not more than two, removable disabled windshield hanging placards for use when the disabled person is occupying a vehicle or when a vehicle not bearing the permanent handicap plate is being used to pick up, deliver, or collect the physically disabled person issued the disabled motor vehicle license plate or disabled windshield hanging placard.

9. No additional fee shall be paid to the director for the issuance of the special license plates provided in this section, except for special personalized license plates and other license plates described in this subsection. Priority for any specific set of special license plates shall be given to the applicant who received the number in the immediately preceding license period subject to the applicant's compliance with the provisions of this section and any applicable rules or

regulations issued by the director. If determined feasible by the advisory committee established in section 301.129, any special license plate issued pursuant to this section may be adapted to also include the international wheelchair accessibility symbol and the word "DISABLED" as prescribed in this section and such plate may be issued to any applicant who meets the requirements of this section and the other appropriate provision of this chapter, subject to the requirements and fees of the appropriate provision of this chapter.

10. Any physically disabled person, or the parent or guardian of any such person, or any not-for-profit group, organization, or other entity which transports more than one physically disabled person, may apply to the director of revenue for a removable windshield placard. The placard may be used in motor vehicles which do not bear the permanent handicap symbol on the license plate. Such placards must be hung from the front, middle rearview mirror of a parked motor vehicle and may not be hung from the mirror during operation. These placards may only be used during the period of time when the vehicle is being used by a disabled person, or when the vehicle is being used to pick up, deliver, or collect a disabled person. When there is no rearview mirror, the placard shall be displayed on the dashboard on the driver's side.

11. The removable windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The removable windshield placard shall be renewed every four years. The director may stagger the expiration dates to equalize workload. Only one removable placard may be issued to an applicant who has been issued disabled person license plates. Upon request, one additional windshield placard may be issued to an applicant who has not been issued disabled person license plates.

12. A temporary windshield placard shall be issued to any physically disabled person, or the parent or guardian of any such person who otherwise qualifies except that the physical disability, in the opinion of the physician, is not expected to exceed a period of one hundred eighty days. The temporary windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The fee for the temporary windshield placard shall be two dollars. Upon request, and for good cause shown, one additional temporary windshield placard may be issued to an applicant. Temporary windshield placards shall be issued upon presentation of the physician's statement provided by this section and shall be displayed in the same manner as removable windshield placards. A person or entity shall be qualified to possess and display a temporary removable windshield placard for six months and the placard may be renewed once for an additional six months if a physician's statement pursuant to this section is supplied to the director of revenue at the time of renewal.

13. Application for license plates or windshield placards issued pursuant to this section shall be made to the director of revenue and shall be accompanied by a statement signed by a licensed physician or other authorized health care practitioner which certifies that the applicant, user, or member of the applicant's household is a physically disabled person as defined by this section.

14. The placard shall be renewable only by the person or entity to which the placard was originally issued. Any placard issued pursuant to this section shall only be used when the physically disabled occupant for whom the disabled plate or placard was issued is in the motor vehicle at the time of parking or when a physically disabled person is being delivered or collected. A disabled license plate and/or a removable windshield hanging placard are not transferable and may not be used by any other person whether disabled or not.

15. At the time the disabled plates or windshield hanging placards are issued, the director shall issue a registration certificate which shall include the applicant's name, address, and other identifying information as prescribed by the director, or if issued to an agency, such agency's name and address. This certificate shall further contain the disabled license plate number or, for windshield hanging placards, the registration or identifying number stamped on the placard. The validated registration receipt given to the applicant shall serve as the registration certificate.

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16. The director shall, upon issuing any disabled registration certificate for license plates and/or windshield hanging placards, provide information which explains that such plates or windshield hanging placards are nontransferable, and the restrictions explaining who and when a person or vehicle which bears or has the disabled plates or windshield hanging placards may be used or be parked in a disabled reserved parking space, and the penalties prescribed for violations of the provisions of this act.

17. Every new applicant for a disabled license plate or placard shall be required to present a new physician's statement dated no more than ninety days prior to such application. Renewal applicants will be required to submit a physician's statement dated no more than ninety days prior to such application upon their first renewal occurring on or after August 1, 2005. Upon completing subsequent renewal applications, a physician's statement dated no more than ninety days prior to such application shall be required every fourth year. Such physician's statement shall state the expiration date for the temporary windshield placard. If the physician fails to record an expiration date on the physician's statement, the director shall issue the temporary windshield placard for a period of thirty days. The director may stagger the requirement of a physician's statement on all renewals for the initial implementation of a four-year period.

18. The director of revenue upon receiving a physician's statement pursuant to this subsection shall check with the state board of registration for the healing arts created in section 334.120, or the Missouri state board of nursing established in section 335.021, with respect to physician's statements signed by advanced practice registered nurses, or the Missouri state board of chiropractic examiners established in section 331.090, with respect to physician's statements signed by licensed chiropractors, or with the board of optometry established in section 336.130, with respect to physician's statements signed by licensed optometrists, or the state board of podiatric medicine created in section 330.100, with respect to physician's statements signed by physicians of the foot or podiatrists to determine whether the physician is duly licensed and registered pursuant to law. If such applicant obtaining a disabled license plate or placard presents proof of disability in the form of a statement from the United States Veterans' Administration verifying that the person is permanently disabled, the applicant shall be exempt from the four-year certification requirement of this subsection for renewal of the plate or placard. Initial applications shall be accompanied by the physician's statement required by this section. Notwithstanding the provisions of paragraph (f) of subdivision (4) of subsection 1 of this section, any person seventy-five years of age or older who provided the physician's statement with the original application shall not be required to provide a physician's statement for the purpose of renewal of disabled persons license plates or windshield placards.

19. The boards shall cooperate with the director and shall supply information requested pursuant to this subsection. The director shall, in cooperation with the boards which shall assist the director, establish a list of all Missouri physicians and other authorized health care practitioners and of any other information necessary to administer this section.

20. Where the owner's application is based on the fact that the vehicle is used at least fifty percent of the time by a physically disabled person, the applicant shall submit a statement stating this fact, in addition to the physician's statement. The statement shall be signed by both the owner of the vehicle and the physically disabled person. The applicant shall be required to submit this statement with each application for license plates. No person shall willingly or knowingly submit a false statement and any such false statement shall be considered perjury and may be punishable pursuant to section 301.420.

21. The director of revenue shall retain all physicians' statements and all other documents received in connection with a person's application for disabled license plates and/or disabled windshield placards.

22. The director of revenue shall enter into reciprocity agreements with other states or the federal government for the purpose of recognizing disabled person license plates or windshield placards issued to physically disabled persons.

23. When a person to whom disabled person license plates or a removable or temporary windshield placard or both have been issued dies, the personal representative of the decedent or such other person who may come into or otherwise take possession of the disabled license plates or disabled windshield placard shall return the same to the director of revenue under penalty of law. Failure to return such plates or placards shall constitute a class B misdemeanor.

24. The director of revenue may order any person issued disabled person license plates or windshield placards to submit to an examination by a chiropractor, osteopath, or physician, or to such other investigation as will determine whether such person qualifies for the special plates or placards.

25. If such person refuses to submit or is found to no longer qualify for special plates or placards provided for in this section, the director of revenue shall collect the special plates or placards, and shall furnish license plates to replace the ones collected as provided by this chapter.

26. In the event a removable or temporary windshield placard is lost, stolen, or mutilated, the lawful holder thereof shall, within five days, file with the director of revenue an application and an affidavit stating such fact, in order to purchase a new placard. The fee for the replacement windshield placard shall be four dollars.

27. Fraudulent application, renewal, issuance, procurement or use of disabled person license plates or windshield placards shall be a class A misdemeanor. It is a class B misdemeanor for a physician, chiropractor, podiatrist or optometrist to certify that an individual or family member is qualified for a license plate or windshield placard based on a disability, the diagnosis of which is outside their scope of practice or if there is no basis for the diagnosis.

**301.196. TRANSFERORS OF INTEREST IN MOTOR VEHICLES OR TRAILERS, NOTICE TO REVENUE, WHEN, FORM—EXCEPTIONS.**— 1. Beginning January 1, 2006, except as otherwise provided in this section, the transferor of an interest in a motor vehicle or trailer listed on the face of a Missouri title, excluding salvage titles and junking certificates, shall notify the department of revenue of the transfer within thirty days of the date of transfer. The notice shall be in a form determined by the department by rule and shall contain:

(1) **The name of the transferor;**

(2) A description of the motor vehicle or trailer sufficient to identify it;

[2] (3) The vehicle identification number of the motor vehicle or trailer;

[3] (4) The name and address of the transferee;

[4] (5) The date of birth of the transferee, unless the transferee is not a natural person;

[5] (6) The date of the transfer or sale;

[6] (7) The purchase price of the motor vehicle or trailer, if applicable;

[7] (8) The number of the transferee's drivers license, unless the transferee does not have a drivers license;

[8] The printed name and signature] (9) **The transferor's electronic signature if transmitted electronically or the signatures of the transferee and transferor if not submitted electronically. For the purposes of this section, "transmitted electronically" shall have the same meaning as an electronic signature as defined in section 432.205;**

[9] (10) Any other information required by the department by rule.

2. **A notice of sale substantially complying with the requirements of this section is effective even though it contains minor errors which are not materially misleading.**

3. For purposes of giving notice under this section, if the transfer occurs by operation of law, the personal representative, receiver, trustee, sheriff, or other representative or successor in interest of the person whose interest is transferred shall be considered the transferor. Repossession by a creditor shall not be considered a transfer of ownership requiring such notice.

[3.] 4. The requirements of this section shall not apply to transfers when there is no complete change of ownership interest or upon award of ownership of a motor vehicle or trailer made by court order, or transfers of ownership of a motor vehicle or trailer to or between vehicle

dealers, or transfers of ownership of a motor vehicle or trailer to an insurance company due to a theft or casualty loss, or transfers of beneficial ownership of a motor vehicle owned by a trust.

[4.] 5. Notification under this section is only required for transfers of ownership that would otherwise require registration and an application for certificate of title in this state under section 301.190, and is for informational purposes only and does not constitute an assignment or release of any interest in the vehicle.

[5.] 6. Retail sales made by licensed dealers including sales of new vehicles shall be reported pursuant to the provisions of section 301.280.

**301.474. KOREAN DEFENSE SERVICE MEDAL, SPECIAL LICENSE PLATES, APPLICATION, FEE.** — 1. Any person who has been awarded the military service award known as the "Korea Defense Service Medal" may apply for special motor vehicle license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight.

2. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof as a recipient of the Korea Defense Service Medal as the director may require.

3. Upon presentation of such proof of eligibility, payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law the director of revenue shall issue to the vehicle owner a special personalized license plate which shall bear the words "KOREA DEFENSE SERVICE MEDAL" at the bottom of the plate in a manner prescribed by the director of revenue. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive as prescribed by section 301.130.

4. Such plates shall also bear an image of the Korea Defense Service Medal.

5. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued under this section.

6. There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person.

7. License plates issued under the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person.

8. The director may consult with any organization which represents the interests of persons receiving the Korea Defense Service Medal when formulating the design for the special license plates described in this section.

9. The director shall make all necessary rules and regulations for the administration of this section and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly 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, 2015, shall be invalid and void.

**301.3097. GOD BLESS AMERICA SPECIAL LICENSE PLATE, APPLICATION, FEE.** — 1. Any vehicle owner may apply for "God Bless America" license plates for any motor vehicle the

person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Upon making a ten dollar contribution to the World War [III] I memorial trust fund the vehicle owner may apply for the "God Bless America" plate. If the contribution is made directly to the Missouri veterans' commission they shall issue the individual making the contribution a receipt, verifying the contribution, that may be used to apply for the "God Bless America" license plate. If the contribution is made directly to the director of revenue pursuant to section 301.3031, the director shall note the contribution and the owner may then apply for the "God Bless America" plate. The applicant for such plate must pay a fifteen dollar fee in addition to the regular registration fees and present any other documentation required by law for each set of "God Bless America" plates issued pursuant to this section. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section. The "God Bless America" plate shall bear the emblem of the American flag in a form prescribed by the director of revenue and shall have the words "GOD BLESS AMERICA" in place of the words "SHOW-ME-STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

2. The director of revenue may promulgate rules and regulations for the administration 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, 2002, shall be invalid and void.

**302.010. DEFINITIONS. DEFINITIONS.** — Except where otherwise provided, when used in this chapter, the following words and phrases mean:

- (1) "Circuit court", each circuit court in the state;
- (2) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than fifteen passengers;
- (3) "Conviction", any final conviction; also a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction, except that when any conviction as a result of which points are assessed pursuant to section 302.302 is appealed, the term "conviction" means the original judgment of conviction for the purpose of determining the assessment of points, and the date of final judgment affirming the conviction shall be the date determining the beginning of any license suspension or revocation pursuant to section 302.304;
- (4) "Criminal history check", a search of criminal records, including criminal history record information as defined in section 43.500, maintained by the Missouri state highway patrol in the Missouri criminal records repository or by the Federal Bureau of Investigation as part of its criminal history records, including, but not limited to, any record of conviction, plea of guilty or nolo contendere, or finding of guilty in any state for any offense related to alcohol, controlled substances, or drugs;
- (5) "Director", the director of revenue acting directly or through the director's authorized officers and agents;
- (6) "Farm tractor", every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;
- (7) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways, or alleys in any municipality;
- (8) "Incompetent to drive a motor vehicle", a person who has become physically incapable of meeting the prescribed requirements of an examination for an operator's license, or who has

been adjudged by a probate division of the circuit court in a capacity hearing of being incapacitated;

(9) "License", a license issued by a state to a person which authorizes a person to operate a motor vehicle;

(10) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks except motorized bicycles, as defined in section 307.180;

(11) "Motorcycle", a motor vehicle operated on two wheels; however, this definition shall not include motorized bicycles as defined in section 301.010;

(12) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle operated with any conveyance, temporary or otherwise, requiring the use of a third wheel;

(13) "Moving violation", that character of traffic violation where at the time of violation the motor vehicle involved is in motion, except that the term does not include the driving of a motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170 to 304.240, inclusive, relating to sizes and weights of vehicles;

(14) "Municipal court", every division of the circuit court having original jurisdiction to try persons for violations of city ordinances;

(15) "Nonresident", every person who is not a resident of this state;

(16) "Operator", every person who is in actual physical control of a motor vehicle upon a highway;

(17) "Owner", a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of sections 302.010 to 302.540;

(18) "Record" includes, but is not limited to, papers, documents, facsimile information, microphotographic process, electronically generated or electronically recorded information, digitized images, deposited or filed with the department of revenue;

(19) "Residence address", "residence", or "resident address" shall be the location at which a person has been physically present, and that the person regards as home. A residence address is a person's true, fixed, principal, and permanent home, to which a person intends to return and remain, even though currently residing elsewhere;

(20) "Restricted driving privilege", a **sixty-day** driving privilege issued by the director of revenue following a suspension of driving privileges for the limited purpose of driving in connection with the driver's business, occupation, employment, formal program of secondary, postsecondary or higher education, or for an alcohol education or treatment program or certified ignition interlock provider, **or a ninety-day "interlock restricted privilege" issued by the director of revenue for the limited purpose of driving in connection with the driver's business, occupation, employment, seeking medical treatment for such driver or a dependent family member, attending school or other institution of higher education, attending alcohol or drug treatment programs, seeking the required services of a certified ignition interlock provider, fulfilling court obligations, including required appearances and probation and parole obligations, religious services, the care of a child or children, including scheduled visitation or custodial obligations pursuant to a court order, fueling requirements for any vehicle utilized, and seeking basic nutritional requirements;**

(21) "School bus", when used in sections 302.010 to 302.540, means any motor vehicle, either publicly or privately owned, used to transport students to and from school, or to transport pupils properly chaperoned to and from any place within the state for educational purposes. The term "school bus" shall not include a bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interstate transportation of passengers when such bus is not traveling a specific school bus route but is:

(a) On a regularly scheduled route for the transportation of fare-paying passengers; or

(b) Furnishing charter service for the transportation of persons enrolled as students on field trips or other special trips or in connection with other special events;

(22) "School bus operator", an operator who operates a school bus as defined in subdivision (21) of this section in the transportation of any schoolchildren and who receives compensation for such service. The term "school bus operator" shall not include any person who transports schoolchildren as an incident to employment with a school or school district, such as a teacher, coach, administrator, secretary, school nurse, or janitor unless such person is under contract with or employed by a school or school district as a school bus operator;

(23) "Signature", any method determined by the director of revenue for the signing, subscribing or verifying of a record, report, application, driver's license, or other related document that shall have the same validity and consequences as the actual signing by the person providing the record, report, application, driver's license or related document;

(24) "Substance abuse traffic offender program", a program certified by the division of alcohol and drug abuse of the department of mental health to provide education or rehabilitation services pursuant to a professional assessment screening to identify the individual needs of the person who has been referred to the program as the result of an alcohol- or drug-related traffic offense. Successful completion of such a program includes participation in any education or rehabilitation program required to meet the needs identified in the assessment screening. The assignment recommendations based upon such assessment shall be subject to judicial review as provided in subsection 14 of section 302.304 and subsections 1 and 5 of section 302.540;

(25) "Vehicle", any mechanical device on wheels, designed primarily for use, or used on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons.

**302.060. BEGINNING JANUARY 1, 2017 — LICENSE NOT TO BE ISSUED TO WHOM, EXCEPTIONS — REINSTATEMENT REQUIREMENTS.** — 1. The director shall not issue any license and shall immediately deny any driving privilege:

(1) To any person who is under the age of eighteen years, if such person operates a motor vehicle in the transportation of persons or property as classified in section 302.015;

(2) To any person who is under the age of sixteen years, except as hereinafter provided;

(3) To any person whose license has been suspended, during such suspension, or to any person whose license has been revoked, until the expiration of one year after such license was revoked;

(4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

(5) To any person who has previously been adjudged to be incapacitated and who at the time of application has not been restored to partial capacity;

(6) To any person who, when required by this law to take an examination, has failed to pass such examination;

(7) To any person who has an unsatisfied judgment against such person, as defined in chapter 303, until such judgment has been satisfied or the financial responsibility of such person, as described in section 303.120, has been established;

(8) To any person whose application shows that the person has been convicted within one year prior to such application of violating the laws of this state relating to failure to stop after an accident and to disclose the person's identity or driving a motor vehicle without the owner's consent;

(9) To any person who has been convicted more than twice of violating state law, or a county or municipal ordinance where the defendant was represented by or waived the right to an attorney in writing, relating to driving while intoxicated; except that, after the expiration of ten years from the date of conviction of the last offense of violating such law or ordinance relating to driving while intoxicated, a person who was so convicted may petition the circuit court of the county in which such last conviction was rendered and the court shall review the person's habits

and conduct since such conviction, including the results of a criminal history check as defined in section 302.010. If the court finds that the petitioner has not been found guilty of, and has no pending charges for any offense related to alcohol, controlled substances or drugs and has no other alcohol-related enforcement contacts as defined in section 302.525 during the preceding ten years and that the petitioner's habits and conduct show such petitioner to no longer pose a threat to the public safety of this state, the court shall order the director to issue a license to the petitioner if the petitioner is otherwise qualified pursuant to the provisions of sections 302.010 to 302.540. No person may obtain a license pursuant to the provisions of this subdivision through court action more than one time;

(10) To any person who has been found guilty of acting with criminal negligence while driving while intoxicated to cause the death of another person, or to any person who has been convicted twice within a five-year period of violating state law, county or municipal ordinance of driving while intoxicated, or any other intoxication-related traffic offense as defined in section 577.001, except that, after the expiration of five years from the date of conviction of the last offense of violating such law or ordinance, a person who was so convicted may petition the circuit court of the county in which such last conviction was rendered and the court shall review the person's habits and conduct since such conviction, including the results of a criminal history check as defined in section 302.010. If the court finds that the petitioner has not been found guilty of, and has no pending charges for any offense related to alcohol, controlled substances, or drugs and has no other alcohol-related enforcement contacts as defined in section 302.525 during the preceding five years, and that the petitioner's habits and conduct show such petitioner to no longer pose a threat to the public safety of this state, the court shall order the director to issue a license to the petitioner if the petitioner is otherwise qualified pursuant to the provisions of sections 302.010 to 302.540;

(11) To any person who is otherwise disqualified pursuant to the provisions of chapter 302, chapter 303, or section 544.046;

(12) To any person who is under the age of eighteen years, if such person's parents or legal guardians file a certified document with the department of revenue stating that the director shall not issue such person a driver's license. Each document filed by the person's parents or legal guardians shall be made upon a form furnished by the director and shall include identifying information of the person for whom the parents or legal guardians are denying the driver's license. The document shall also contain identifying information of the person's parents or legal guardians. The document shall be certified by the parents or legal guardians to be true and correct. This provision shall not apply to any person who is legally emancipated. The parents or legal guardians may later file an additional document with the department of revenue which reinstates the person's ability to receive a driver's license.

2. Any person whose license is reinstated under the provisions of subdivision (9) or (10) of subsection 1 of this section shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of reinstatement. The ignition interlock device required for reinstatement under this subsection and for obtaining a limited driving privilege under paragraph (a) or (b) of subdivision (8) of subsection 3 of section 302.309 shall have a photo identification technology feature, and a court may require a global positioning system feature for such device. The ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the monthly monitoring reports show that the ignition interlock device has registered any confirmed blood alcohol concentration readings above the alcohol setpoint established by the department of transportation or that the person has tampered with or circumvented the ignition interlock device **within the last three months of the six-month period of required installation of the ignition interlock device**, then the period for which the person must maintain the ignition interlock device following the date of reinstatement shall be extended [for an additional six months] **until the person has completed three consecutive**

**months with no violations as described in this section.** If the person fails to maintain such proof with the director, the license shall be suspended [for the remainder of the six-month period or] until proof as required by this section is filed with the director. [Upon the completion of the six-month period, the license shall be shown as reinstated, if the person is otherwise eligible.]

3. Any person who petitions the court for reinstatement of his or her license pursuant to subdivision (9) or (10) of subsection 1 of this section shall make application with the Missouri state highway patrol as provided in section 43.540, and shall submit two sets of fingerprints collected pursuant to standards as determined by the highway patrol. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. At the time of application, the applicant shall supply to the highway patrol the court name and case number for the court where he or she has filed his or her petition for reinstatement. The applicant shall pay the fee for the state criminal history check pursuant to section 43.530 and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record. The Missouri highway patrol, upon receipt of the results of the criminal history check, shall forward a copy of the results to the circuit court designated by the applicant and to the department. Notwithstanding the provisions of section 610.120, all records related to any criminal history check shall be accessible and available to the director and the court.

**302.304. BEGINNING JANUARY 1, 2017 — NOTICE OF POINTS — SUSPENSION OR REVOCATION OF LICENSE, WHEN, DURATION — REINSTATEMENT, CONDITION, POINT REDUCTION, FEE — FAILURE TO MAINTAIN PROOF OF FINANCIAL RESPONSIBILITY, EFFECT — POINT REDUCTION PRIOR TO CONVICTION, EFFECT — SURRENDER OF LICENSE — REINSTATEMENT OF LICENSE WHEN DRUGS OR ALCOHOL INVOLVED, ASSIGNMENT RECOMMENDATION, JUDICIAL REVIEW — FEES FOR PROGRAM — SUPPLEMENTAL FEES. —**

1. The director shall notify by ordinary mail any operator of the point value charged against the operator's record when the record shows four or more points have been accumulated in a twelve-month period.

2. In an action to suspend or revoke a license or driving privilege under this section points shall be accumulated on the date of conviction. No case file of any conviction for a driving violation for which points may be assessed pursuant to section 302.302 may be closed until such time as a copy of the record of such conviction is forwarded to the department of revenue.

3. The director shall suspend the license and driving privileges of any person whose driving record shows the driver has accumulated eight points in eighteen months.

4. The license and driving privilege of any person whose license and driving privilege have been suspended under the provisions of sections 302.010 to 302.540 except those persons whose license and driving privilege have been suspended under the provisions of subdivision (8) of subsection 1 of section 302.302 or has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, and is otherwise eligible, shall be reinstated as follows:

- (1) In the case of an initial suspension, thirty days after the effective date of the suspension;
- (2) In the case of a second suspension, sixty days after the effective date of the suspension;
- (3) In the case of the third and subsequent suspensions, ninety days after the effective date of the suspension.

Unless proof of financial responsibility is filed with the department of revenue, a suspension shall continue in effect for two years from its effective date.

5. The period of suspension of the driver's license and driving privilege of any person under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving privilege as

defined in section 302.010. Upon completion of such period of restricted driving privilege, upon compliance with other requirements of law and upon filing of proof of financial responsibility with the department of revenue, in accordance with chapter 303, the license and driving privilege shall be reinstated. If a person, otherwise subject to the provisions of this subsection, files proof of installation with the department of revenue that any vehicle operated by such person is equipped with a functioning, certified ignition interlock device, there shall be no period of suspension. However, in lieu of a suspension the person shall instead complete a ninety-day period of restricted driving privilege. If the person fails to maintain such proof of the device with the director of revenue as required, the restricted driving privilege shall be terminated. Upon completion of such ninety-day period of restricted driving privilege, upon compliance with other requirements of law, and upon filing of proof of financial responsibility with the department of revenue, in accordance with chapter 303, the license and driving privilege shall be reinstated. However, if the monthly monitoring reports during such ninety-day period indicate that the ignition interlock device has registered a confirmed blood alcohol concentration level above the alcohol setpoint established by the department of transportation or such reports indicate that the ignition interlock device has been tampered with or circumvented, then the license and driving privilege of such person shall not be reinstated until the person completes an additional thirty-day period of restricted driving privilege.

6. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, or, if applicable, if the person fails to maintain proof that any vehicle operated is equipped with a functioning, certified ignition interlock device installed pursuant to subsection 5 of this section, the person's driving privilege and license shall be resuspended.

7. The director shall revoke the license and driving privilege of any person when the person's driving record shows such person has accumulated twelve points in twelve months or eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation period of any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 and who has filed proof of financial responsibility with the department of revenue in accordance with chapter 303 and is otherwise eligible, shall be terminated by a notice from the director of revenue after one year from the effective date of the revocation. Unless proof of financial responsibility is filed with the department of revenue, except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for a period of two years from its effective date. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, the person's license and driving privilege shall be rerevoked. Any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of the revocation from the director, pass the complete driver examination and apply for a new license before again operating a motor vehicle upon the highways of this state.

8. If, prior to conviction for an offense that would require suspension or revocation of a person's license under the provisions of this section, the person's total points accumulated are reduced, pursuant to the provisions of section 302.306, below the number of points required for suspension or revocation pursuant to the provisions of this section, then the person's license shall not be suspended or revoked until the necessary points are again obtained and accumulated.

9. If any person shall neglect or refuse to surrender the person's license, as provided herein, the director shall direct the state highway patrol or any peace or police officer to secure possession thereof and return it to the director.

10. Upon the issuance of a reinstatement or termination notice after a suspension or revocation of any person's license and driving privilege under the provisions of sections 302.010 to 302.540, the accumulated point value shall be reduced to four points, except that the points of any person serving as a member of the Armed Forces of the United States outside the limits of the United States during a period of suspension or revocation shall be reduced to zero upon the date of the reinstatement or termination of notice. It shall be the responsibility of such member of the Armed Forces to submit copies of official orders to the director of revenue to

substantiate such overseas service. Any other provision of sections 302.010 to 302.540 to the contrary notwithstanding, the effective date of the four points remaining on the record upon reinstatement or termination shall be the date of the reinstatement or termination notice.

11. No credit toward reduction of points shall be given during periods of suspension or revocation or any period of driving under a limited driving privilege granted by a court or the director of revenue.

12. Any person or nonresident whose license or privilege to operate a motor vehicle in this state has been suspended or revoked under this or any other law shall, before having the license or privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee of twenty dollars which shall be in addition to all other fees provided by law.

13. Notwithstanding any other provision of law to the contrary, if after two years from the effective date of any suspension or revocation issued under this chapter, except any suspension or revocation issued under section 302.410, 302.462, or 302.574, the person or nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such license or privilege to operate a motor vehicle in this state. Any person who has had his or her license suspended or revoked under section 302.410, 302.462, or 302.574, shall be required to pay the reinstatement fee.

14. No person who has had a license to operate a motor vehicle suspended or revoked as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of subsection 1 of section 302.302 shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 302.010, or a program determined to be comparable by the department of mental health. Assignment recommendations, based upon the needs assessment as described in subdivision (24) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.001 or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

15. The fees for the program authorized in subsection 14 of this section, or a portion thereof to be determined by the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee in an amount to be determined by the department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010 or a program determined to be comparable by the department of mental health. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rate established

pursuant to the provisions of section 32.065, plus three percentage points. The supplemental fees and any interest received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053.

16. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

17. Any person who has had a license to operate a motor vehicle suspended or revoked as a result of an assessment of points for a conviction for an intoxication-related traffic offense as defined under section 577.001, and who has a prior alcohol-related enforcement contact as defined under section 302.525, shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of reinstatement of the license. The ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the monthly monitoring reports show that the ignition interlock device has registered any confirmed blood alcohol concentration readings above the alcohol setpoint established by the department of transportation or that the person has tampered with or circumvented the ignition interlock device **within the last three months of the six-month period of required installation of the ignition interlock device**, then the period for which the person must maintain the ignition interlock device following the date of reinstatement shall be extended [for an additional six months] **until the person has completed three consecutive months with no violations as described in this section**. If the person fails to maintain such proof with the director, the license shall be resuspended or revoked and the person shall be guilty of a class A misdemeanor.

**302.309. BEGINNING JANUARY 1, 2017 — RETURN OF LICENSE, WHEN — LIMITED DRIVING PRIVILEGE, WHEN GRANTED, APPLICATION, WHEN DENIED — JUDICIAL REVIEW OF DENIAL BY DIRECTOR OF REVENUE — RULEMAKING. —** 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309, the director of revenue shall return the license to the operator immediately upon the termination of the period of suspension and upon compliance with the requirements of chapter 303.

2. Any operator whose license is revoked pursuant to these sections, upon the termination of the period of revocation, shall apply for a new license in the manner prescribed by law.

3. (1) All circuit courts, the director of revenue, or a commissioner operating under section 478.007 shall have jurisdiction to hear applications and make eligibility determinations granting limited driving privileges, except as provided under subdivision (8) of this subsection. Any application may be made in writing to the director of revenue and the person's reasons for requesting the limited driving privilege shall be made therein.

(2) When any court of record having jurisdiction or the director of revenue finds that an operator is required to operate a motor vehicle in connection with any of the following:

- (a) A business, occupation, or employment;
- (b) Seeking medical treatment for such operator;
- (c) Attending school or other institution of higher education;
- (d) Attending alcohol or drug treatment programs;
- (e) Seeking the required services of a certified ignition interlock device provider; or
- (f) Any other circumstance the court or director finds would create an undue hardship on the operator,

the court or director may grant such limited driving privilege as the circumstances of the case justify if the court or director finds undue hardship would result to the individual, and while so operating a motor vehicle within the restrictions and limitations of the limited driving privilege the driver shall not be guilty of operating a motor vehicle without a valid license.

(3) An operator may make application to the proper court in the county in which such operator resides or in the county in which is located the operator's principal place of business or employment. Any application for a limited driving privilege made to a circuit court shall name the director as a party defendant and shall be served upon the director prior to the grant of any limited privilege, and shall be accompanied by a copy of the applicant's driving record as certified by the director. Any applicant for a limited driving privilege shall have on file with the department of revenue proof of financial responsibility as required by chapter 303. Any application by a person who transports persons or property as classified in section 302.015 may be accompanied by proof of financial responsibility as required by chapter 303, but if proof of financial responsibility does not accompany the application, or if the applicant does not have on file with the department of revenue proof of financial responsibility, the court or the director has discretion to grant the limited driving privilege to the person solely for the purpose of operating a vehicle whose owner has complied with chapter 303 for that vehicle, and the limited driving privilege must state such restriction. When operating such vehicle under such restriction the person shall carry proof that the owner has complied with chapter 303 for that vehicle.

(4) No limited driving privilege shall be issued to any person otherwise eligible under the provisions of [paragraph (a) of] subdivision (6) of this subsection [on a license revocation resulting from a conviction under subdivision (9) of subsection 1 of section 302.302, or] **if such person has a license denial under paragraph (a) or (b) of subdivision (8) of this subsection[, or a license revocation under paragraph (g) of subdivision (6) of this subsection,] or on a license revocation resulting from a conviction under subdivision (9) of subsection 1 of section 302.302, or a license revocation under subdivision (2) of subsection 2 of section 302.525, or sections 302.574 or 577.041,** until the applicant has filed proof with the department of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of limited driving privilege. The ignition interlock device required for obtaining a limited driving privilege under paragraph (a) or (b) of subdivision (8) of this subsection shall have a photo identification technology feature, and a court may require a global positioning system feature for such device.

(5) The court order or the director's grant of the limited or restricted driving privilege shall indicate the termination date of the privilege, which shall be not later than the end of the period of suspension or revocation. The court order or the director's grant of the limited or restricted driving privilege shall also indicate whether a functioning, certified ignition interlock device is required as a condition of operating a motor vehicle with the limited driving privilege. A copy of any court order shall be sent by the clerk of the court to the director, and a copy shall be given to the driver which shall be carried by the driver whenever such driver operates a motor vehicle. The director of revenue upon granting a limited driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction which results in the assessment of points pursuant to section 302.302, other than a violation of a municipal stop sign ordinance where no accident is involved, against a driver who is operating a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points are assessed to the person's driving record. If the date of arrest is prior to the issuance of the limited driving privilege, the privilege shall not be terminated. Failure of the driver to maintain proof of financial responsibility, as required by chapter 303, or to maintain proof of installation of a functioning, certified ignition interlock device, as applicable, shall terminate the privilege. The director shall notify by ordinary mail the driver whose privilege is so terminated.

(6) Except as provided in subdivision (8) of this subsection, no person is eligible to receive a limited driving privilege whose license at the time of application has been suspended or revoked for the following reasons:

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(a) [A conviction of violating the provisions of section 577.010 or 577.012, or any similar provision of any federal or state law, or a municipal or county law where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, until the person has completed the first thirty days of a suspension or revocation imposed pursuant to this chapter;

(b) A conviction of any felony in the commission of which a motor vehicle was used **and such conviction occurred within the five year period prior to the date of application. However, any felony conviction for leaving the scene of an accident under section 577.060 shall not render the applicant ineligible for a limited driving privilege under this section;**

[(c)] **(b)** Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5), (6), (7), (8), (9), **or** (10) [or (11)] of subsection 1 of section 302.060; **or**

[(d)] Because of operating a motor vehicle under the influence of narcotic drugs, a controlled substance as defined in chapter 195, or having left the scene of an accident as provided in section 577.060;

(e) Due to a revocation for failure to submit to a chemical test pursuant to section 302.574 or due to a refusal to submit to a chemical test in any other state, unless such person has completed the first ninety days of such revocation and files proof of installation with the department of revenue that any vehicle operated by such person is equipped with a functioning, certified ignition interlock device, provided the person is not otherwise ineligible for a limited driving privilege;

[(f)] **(c)** Due to a suspension pursuant to **subdivision (8) or (10) of subsection 1 of section 302.302 or** subsection 2 of section 302.525 [and who has not completed the first thirty days of such suspension, provided the person is not otherwise ineligible for a limited driving privilege; or

(g) Due to a revocation pursuant to subsection 2 of section 302.525 if such person has not completed the first forty-five days of such revocation, provided the person is not otherwise ineligible for a limited driving privilege].

(7) No person who possesses a commercial driver's license shall receive a limited driving privilege issued for the purpose of operating a commercial motor vehicle if such person's driving privilege is suspended, revoked, cancelled, denied, or disqualified. Nothing in this section shall prohibit the issuance of a limited driving privilege for the purpose of operating a noncommercial motor vehicle provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege.

(8) (a) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of ten years, as prescribed in subdivision (9) of subsection 1 of section 302.060, to apply for a limited driving privilege pursuant to this subsection. Such person shall present evidence satisfactory to the court or the director that such person's habits and conduct show that the person no longer poses a threat to the public safety of this state. A circuit court shall grant a limited driving privilege to any individual who otherwise is eligible to receive a limited driving privilege, has filed proof of installation of a certified ignition interlock device, and has had no alcohol-related enforcement contacts since the alcohol-related enforcement contact that resulted in the person's license denial.

(b) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege or convicted of acting with criminal negligence while driving while intoxicated to cause the death of another person, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of five years because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of subsection 1 of section 302.060, to apply for a limited driving privilege pursuant to this

subsection. Such person shall present evidence satisfactory to the court or the director that such person's habits and conduct show that the person no longer poses a threat to the public safety of this state. Any person who is denied a license permanently in this state because of an alcohol-related conviction subsequent to a restoration of such person's driving privileges pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege pursuant to the provisions of this subdivision. A circuit court shall grant a limited driving privilege to any individual who otherwise is eligible to receive a limited driving privilege, has filed proof of installation of a certified ignition interlock device, and has had no alcohol-related enforcement contacts since the alcohol-related enforcement contact that resulted in the person's license denial.

(9) A DWI docket or court established under section 478.007 may grant a limited driving privilege to a participant in or graduate of the program who would otherwise be ineligible for such privilege under another provision of law. [The DWI docket or court shall not grant a limited driving privilege to a participant during his or her initial forty-five days of participation.]

4. Any person who has received notice of denial of a request of limited driving privilege by the director of revenue may make a request for a review of the director's determination in the circuit court of the county in which the person resides or the county in which is located the person's principal place of business or employment within thirty days of the date of mailing of the notice of denial. Such review shall be based upon the records of the department of revenue and other competent evidence and shall be limited to a review of whether the applicant was statutorily entitled to the limited driving privilege.

5. The director of revenue shall promulgate rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, 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, 2001, shall be invalid and void.

**302.525. SUSPENSION OR REVOCATION, WHEN EFFECTIVE, DURATION — RESTRICTED DRIVING PRIVILEGE — EFFECT OF SUSPENSION OR REVOCATION BY COURT ON CHARGES ARISING OUT OF SAME OCCURRENCE — REVOCATION DUE TO ALCOHOL-RELATED OFFENSES, REQUIREMENTS. SUSPENSION OR REVOCATION, WHEN EFFECTIVE, DURATION — RESTRICTED DRIVING PRIVILEGE — EFFECT OF SUSPENSION OR REVOCATION BY COURT ON CHARGES ARISING OUT OF SAME OCCURRENCE — REVOCATION DUE TO ALCOHOL-RELATED OFFENSES, REQUIREMENTS.** — 1. The license suspension or revocation shall become effective fifteen days after the subject person has received the notice of suspension or revocation as provided in section 302.520, or is deemed to have received the notice of suspension or revocation by mail as provided in section 302.515. If a request for a hearing is received by or postmarked to the department within that fifteen-day period, the effective date of the suspension or revocation shall be stayed until a final order is issued following the hearing; provided, that any delay in the hearing which is caused or requested by the subject person or counsel representing that person without good cause shown shall not result in a stay of the suspension or revocation during the period of delay.

2. The period of license suspension or revocation under this section shall be as follows:

(1) If the person's driving record shows no prior alcohol-related enforcement contacts during the immediately preceding five years, the period of suspension shall be thirty days after the effective date of suspension, followed by a sixty-day period of restricted driving privilege as defined in section 302.010 and issued by the director of revenue. The restricted driving privilege shall not be issued until he or she has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, and is otherwise eligible. The restricted driving privilege shall indicate whether a functioning, certified ignition interlock device is required as a

condition of operating a motor vehicle. A copy of the restricted driving privilege shall be given to the person and such person shall carry a copy of the restricted driving privilege while operating a motor vehicle. In no case shall restricted driving privileges be issued pursuant to this section or section 302.535 until the person has completed the first thirty days of a suspension under this section. If a person otherwise subject to the provisions of this subdivision files proof of installation with the department of revenue that any vehicle that he or she operates is equipped with a functioning, certified ignition interlock device, there shall be no period of suspension. However, in lieu of a suspension the person shall instead complete a ninety-day period of restricted driving privilege. Upon completion of such ninety-day period of restricted driving privilege, compliance with other requirements of law, and filing of proof of financial responsibility with the department of revenue, in accordance with chapter 303, the license and driving privilege shall be reinstated. However, if the monthly monitoring reports during such ninety-day period indicate that the ignition interlock device has registered a confirmed blood alcohol concentration level above the alcohol setpoint established by the department of transportation or such reports indicate that the ignition interlock device has been tampered with or circumvented, then the license and driving privilege of such person shall not be reinstated until the person completes an additional thirty-day period of restricted driving privilege. If the person fails to maintain such proof of the device with the director of revenue as required, the restricted driving privilege shall be terminated;

(2) The period of revocation shall be one year if the person's driving record shows one or more prior alcohol-related enforcement contacts during the immediately preceding five years;

(3) In no case shall restricted driving privileges be issued under this section to any person whose driving record shows one or more prior alcohol-related enforcement contacts until the person has [completed the first thirty days of a suspension under this section and has] filed proof with the department of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of the restricted driving privilege. If the person fails to maintain such proof the restricted driving privilege shall be terminated.

3. For purposes of this section, "alcohol-related enforcement contacts" shall include any suspension or revocation under sections 302.500 to 302.540, any suspension or revocation entered in this or any other state for a refusal to submit to chemical testing under an implied consent law, and any conviction in this or any other state for a violation which involves driving while intoxicated, driving while under the influence of drugs or alcohol, or driving a vehicle while having an unlawful alcohol concentration.

4. Where a license is suspended or revoked under this section and the person is also convicted on charges arising out of the same occurrence for a violation of section 577.010 or 577.012 or for a violation of any county or municipal ordinance prohibiting driving while intoxicated or alcohol-related traffic offense, both the suspension or revocation under this section and any other suspension or revocation arising from such convictions shall be imposed, but the period of suspension or revocation under sections 302.500 to 302.540 shall be credited against any other suspension or revocation arising from such convictions, and the total period of suspension or revocation shall not exceed the longer of the two suspension or revocation periods.

5. Any person who has had a license to operate a motor vehicle revoked under this section or suspended under this section with one or more prior alcohol-related enforcement contacts showing on their driver record shall be required to file proof with the director of revenue that any motor vehicle operated by that person is equipped with a functioning, certified ignition interlock device as a required condition of reinstatement. The ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the monthly monitoring reports show that the ignition interlock device has registered any confirmed blood alcohol concentration readings above the alcohol setpoint established by the department of transportation or that the person has tampered with or circumvented the ignition interlock device **within the**

**last three months of the six-month period of required installation of the ignition interlock device**, then the period for which the person must maintain the ignition interlock device following the date of reinstatement shall be extended [for an additional six months] **until the person has completed three consecutive months with no violations as described in this section**. If the person fails to maintain such proof with the director, the license shall be suspended or revoked, [as applicable] **until proof as required by this section is filed with the director, and the person shall be guilty of a class A misdemeanor**.

**302.574. BEGINNING JANUARY 1, 2017 — TEMPORARY PERMIT ISSUED BY OFFICER, WHEN — REPORT REQUIRED, CONTENTS — REVOCATION OF LICENSE, PROCEDURE — REINSTATEMENT, WHEN — FEES — PROOF OF INTERLOCK DEVICE, WHEN — VIOLATIONS, PENALTY.** — 1. If a person who was operating a vehicle refuses upon the request of the officer to submit to any chemical test under section 577.041, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person notice of his or her right to file a petition for review to contest the license revocation.

2. Such officer shall make a certified report under penalties of perjury for making a false statement to a public official. The report shall be forwarded to the director of revenue and shall include the following:

(1) That the officer has:

(a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

(2) That the person refused to submit to a chemical test;

(3) Whether the officer secured the license to operate a motor vehicle of the person;

(4) Whether the officer issued a fifteen-day temporary permit;

(5) Copies of the notice of revocation, the fifteen-day temporary permit, and the notice of the right to file a petition for review. The notices and permit may be combined in one document; and

(6) Any license, which the officer has taken into possession, to operate a motor vehicle.

3. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

4. If a person's license has been revoked because of the person's refusal to submit to a chemical test, such person may petition for a hearing before a circuit division or associate division of the court in the county in which the arrest or stop occurred. The person may request such court to issue an order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state and the director shall maintain possession of the person's license to operate a motor vehicle until termination of any revocation under this section. Upon the person's request, the clerk of the court shall notify

the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing, the court shall determine only:

- (1) Whether the person was arrested or stopped;
- (2) Whether the officer had:
  - (a) Reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated or drugged condition; or
  - (b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or
  - (c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer had reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and
- (3) Whether the person refused to submit to the test.

5. If the court determines any issue not to be in the affirmative, the court shall order the director to reinstate the license or permit to drive.

6. Requests for review as provided in this section shall go to the head of the docket of the court wherein filed.

7. No person who has had a license to operate a motor vehicle suspended or revoked under the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 302.010, or a program determined to be comparable by the department of mental health. Assignment recommendations, based upon the needs assessment as described in subdivision (24) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form provided by the state courts administrator, to have the court hear and determine such motion under the provisions of chapter 517. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a similar offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.001, or of a person determined to have operated a motor vehicle with a blood alcohol content of fifteen-hundredths of one percent or more by weight. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted under this subsection shall not be necessary unless directed by the court.

8. The fees for the substance abuse traffic offender program, or a portion thereof, to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee to be determined by the department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due to the division of alcohol and drug abuse under this section, and shall accrue at a rate not to exceed the annual rates established under the provisions of section 32.065, plus three percentage

points. The supplemental fees and any interest received by the department of mental health under this section shall be deposited in the mental health earnings fund, which is created in section 630.053.

9. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program under this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due to the division under this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action for the collection of said fees and accrued interest. The court shall assess attorneys' fees and court costs against any delinquent program.

10. Any person who has had a license to operate a motor vehicle revoked under this section and who has a prior alcohol-related enforcement contact, as defined in section 302.525, shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of license reinstatement. Such ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the monthly monitoring reports show that the ignition interlock device has registered any confirmed blood alcohol concentration readings above the alcohol setpoint established by the department of transportation or that the person has tampered with or circumvented the ignition interlock device **within the last three months of the six-month period of required installation of the ignition interlock device**, then the period for which the person must maintain the ignition interlock device following the date of reinstatement shall be extended [for an additional six months] **until the person has completed three consecutive months with no violations as described in this section**. If the person fails to maintain such proof with the director as required by this section, the license shall be rerevoked **until proof as required by this section is filed with the director**, and the person shall be guilty of a class A misdemeanor.

11. The revocation period of any person whose license and driving privilege has been revoked under this section and who has filed proof of financial responsibility with the department of revenue in accordance with chapter 303 and is otherwise eligible shall be terminated by a notice from the director of revenue after one year from the effective date of the revocation. Unless proof of financial responsibility is filed with the department of revenue, the revocation shall remain in effect for a period of two years from its effective date. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, the person's license and driving privilege shall be rerevoked.

12. A person commits the offense of failure to maintain proof with the Missouri department of revenue if, when required to do so, he or she fails to file proof with the director of revenue that any vehicle operated by the person is equipped with a functioning, certified ignition interlock device or fails to file proof of financial responsibility with the department of revenue in accordance with chapter 303. The offense of failure to maintain proof with the Missouri department of revenue is a class A misdemeanor.

**478.007. DWI, ALTERNATIVE DISPOSITION OF CASES, DOCKET OR COURT MAY BE ESTABLISHED — PRIVATE PROBATION SERVICES, WHEN (JACKSON COUNTY).** — 1. Any circuit court, or any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants with a county municipal court established under section 66.010, may establish a docket or court to provide an alternative for the judicial system to dispose of cases in which a person has pleaded guilty to driving while intoxicated or driving with excessive blood alcohol content and:

(1) The person was operating a motor vehicle with at least fifteen-hundredths of one percent or more by weight of alcohol in such person's blood; or

(2) The person has previously pleaded guilty to or has been found guilty of one or more intoxication-related traffic offenses as defined by section 577.023; or

(3) The person has two or more previous alcohol-related enforcement contacts as defined in section 302.525.

2. This docket or court shall combine judicial supervision, drug testing, continuous alcohol monitoring, or verifiable breath alcohol testing performed a minimum of four times per day, substance abuse traffic offender program compliance, and treatment of DWI court participants. The court may assess any and all necessary costs for participation in DWI court against the participant. Any money received from such assessed costs by a court from a defendant shall not be considered court costs, charges, or fines. This docket or court may operate in conjunction with a drug court established pursuant to sections 478.001 to 478.006.

3. If the division of probation and parole is otherwise unavailable to assist in the judicial supervision of any person who wishes to enter a DWI court, a court-approved private probation service may be utilized by the DWI court to fill the division's role. In such case, any and all necessary additional costs may be assessed against the participant. No person shall be rejected from participating in DWI court solely for the reason that the person does not reside in the city or county where the applicable DWI court is located but the DWI court can base acceptance into a treatment court program on its ability to adequately provide services for the person or handle the additional caseload.

**577.001. BEGINNING JANUARY 1, 2017 — CHAPTER DEFINITIONS.** — As used in this chapter, the following terms mean:

(1) "Aggravated offender", a person who has been found guilty of:

(a) Three or more intoxication-related traffic offenses committed on separate occasions; or

(b) Two or more intoxication-related traffic offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed;

(2) "Aggravated boating offender", a person who has been found guilty of:

(a) Three or more intoxication-related boating offenses; or

(b) Has been found guilty of one or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed;

(3) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of one thousand pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars for steering control;

(4) "Court", any circuit, associate circuit, or municipal court, including traffic court, but not any juvenile court or drug court;

(5) "Chronic offender", a person who has been found guilty of:

(a) Four or more intoxication-related traffic offenses committed on separate occasions; or

(b) Three or more intoxication-related traffic offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed; or

(c) Two or more intoxication-related traffic offenses committed on separate occasions where both intoxication-related traffic offenses were offenses committed in violation of any state

law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed;

(6) "Chronic boating offender", a person who has been found guilty of:

(a) Four or more intoxication-related boating offenses; or

(b) Three or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related boating offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed; or

(c) Two or more intoxication-related boating offenses committed on separate occasions where both intoxication-related boating offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed;

(7) **"Continuous alcohol monitoring", automatically testing breath, blood, or transdermal alcohol concentration levels and tampering attempts at least once every hour, regardless of the location of the person who is being monitored, and regularly transmitting the data. Continuous alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of section 217.690;**

(8) "Controlled substance", a drug, substance, or immediate precursor in schedules I to V listed in section 195.017;

[(8)] (9) "Drive", "driving", "operates" or "operating", means physically driving or operating a vehicle or vessel;

[(9)] (10) "Flight crew member", the pilot in command, copilots, flight engineers, and flight navigators;

[(10)] (11) "Habitual offender", a person who has been found guilty of:

(a) Five or more intoxication-related traffic offenses committed on separate occasions; or

(b) Four or more intoxication-related traffic offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed; or

(c) Three or more intoxication-related traffic offenses committed on separate occasions where at least two of the intoxication-related traffic offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed; or

(d) While driving while intoxicated, the defendant acted with criminal negligence to:

a. Cause the death of any person not a passenger in the vehicle operated by the defendant, including the death of an individual that results from the defendant's vehicle leaving a highway, as defined by section 301.010, or the highway's right-of-way; or

b. Cause the death of two or more persons; or

c. Cause the death of any person while he or she has a blood alcohol content of at least eighteen-hundredths of one percent by weight of alcohol in such person's blood;

[(11)] (12) "Habitual boating offender", a person who has been found guilty of:

(a) Five or more intoxication-related boating offenses; or

(b) Four or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related boating offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed; or

(c) Three or more intoxication-related boating offenses committed on separate occasions where at least two of the intoxication-related boating offenses were offenses committed in

violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed; or

(d) While boating while intoxicated, the defendant acted with criminal negligence to:

a. Cause the death of any person not a passenger in the vessel operated by the defendant, including the death of an individual that results from the defendant's vessel leaving the water; or

b. Cause the death of two or more persons; or

c. Cause the death of any person while he or she has a blood alcohol content of at least eighteen-hundredths of one percent by weight of alcohol in such person's blood;

[(12)] (13) "Intoxicated" or "intoxicated condition", when a person is under the influence of alcohol, a controlled substance, or drug, or any combination thereof;

[(13)] (14) "Intoxication-related boating offense", operating a vessel while intoxicated; boating while intoxicated; operating a vessel with excessive blood alcohol content or an offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense;

[(14)] (15) "Intoxication-related traffic offense", driving while intoxicated, driving with excessive blood alcohol content or an offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense;

[(15)] (16) "Law enforcement officer" or "arresting officer", includes the definition of law enforcement officer in section 556.061 and military policemen conducting traffic enforcement operations on a federal military installation under military jurisdiction in the state of Missouri;

[(16)] (17) "Operate a vessel", to physically control the movement of a vessel in motion under mechanical or sail power in water;

[(17)] (18) "Persistent offender", a person who has been found guilty of two or more intoxication-related traffic offenses committed on separate occasions;

[(18)] (19) "Persistent boating offender", a person who has been found guilty of two or more intoxication-related boating offenses committed on separate occasions;

[(19)] (20) "Prior offender", a person who has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged;

[(20)] (21) "Prior boating offender", a person who has been found guilty of one intoxication-related boating offense, where such prior offense occurred within five years of the occurrence of the intoxication-related boating offense for which the person is charged.

**577.010. BEGINNING JANUARY 1, 2017 — DRIVING WHILE INTOXICATED — SENTENCING RESTRICTIONS.** — 1. A person commits the offense of driving while intoxicated if he or she operates a vehicle while in an intoxicated condition.

2. The offense of driving while intoxicated is:

(1) A class B misdemeanor;

(2) A class A misdemeanor if:

(a) The defendant is a prior offender; or

(b) A person less than seventeen years of age is present in the vehicle;

(3) A class E felony if:

(a) The defendant is a persistent offender; or

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to another person;

(4) A class D felony if:

(a) The defendant is an aggravated offender;

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to a law enforcement officer or emergency personnel; or

(c) While driving while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to another person;

(5) A class C felony if:

(a) The defendant is a chronic offender;

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to a law enforcement officer or emergency personnel; or

(c) While driving while intoxicated, the defendant acts with criminal negligence to cause the death of another person;

(6) A class B felony if:

(a) The defendant is a habitual offender; or

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause the death of a law enforcement officer or emergency personnel;

(7) A class A felony if the defendant is a habitual offender as a result of being found guilty of an act described under paragraph (d) of subdivision [(10)] (11) of section 577.001 and is found guilty of a subsequent violation of such paragraph.

3. Notwithstanding the provisions of subsection 2 of this section, a person found guilty of the offense of driving while intoxicated as a first offense shall not be granted a suspended imposition of sentence:

(1) Unless such person shall be placed on probation for a minimum of two years; or

(2) In a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, and where the offense was committed with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless the individual participates and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

**4. If a person is found guilty of a second or subsequent offense of driving while intoxicated, the court may order the person to submit to a period of continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four times per day as a condition of probation.**

5. If a person is not granted a suspended imposition of sentence for the reasons described in subsection 3 of this section:

(1) If the individual operated the vehicle with fifteen-hundredths to twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than forty-eight hours;

(2) If the individual operated the vehicle with greater than twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than five days.

[5.] 6. A person found guilty of the offense of driving while intoxicated:

(1) As a prior offender, persistent offender, aggravated offender, chronic offender, or habitual offender shall not be granted a suspended imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

(2) As a prior offender shall not be granted parole or probation until he or she has served a minimum of ten days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available, and as part of either program, the offender performs at least thirty days of community service under the supervision of the court;

(3) As a persistent offender shall not be eligible for parole or probation until he or she has served a minimum of thirty days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available, and as part of either program, the offender performs at least sixty days of community service under the supervision of the court;

(4) As an aggravated offender shall not be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment;

(5) As a chronic offender shall not be eligible for parole or probation until he or she has served a minimum of two years imprisonment; **and**

**(6) Any probation or parole granted under this subsection may include a period of continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four times per day.**

**577.012. BEGINNING JANUARY 1, 2017—DRIVING WITH EXCESSIVE BLOOD ALCOHOL CONTENT—SENTENCING RESTRICTIONS.**— 1. A person commits the offense of driving with excessive blood alcohol content if such person operates:

(1) A vehicle while having eight-hundredths of one percent or more by weight of alcohol in his or her blood; or

(2) A commercial motor vehicle while having four one-hundredths of one percent or more by weight of alcohol in his or her blood.

2. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with the provisions of sections 577.020 to 577.041.

3. The offense of driving with excessive blood alcohol content is:

(1) A class B misdemeanor;

(2) A class A misdemeanor if the defendant is alleged and proved to be a prior offender;

(3) A class E felony if the defendant is alleged and proved to be a persistent offender;

(4) A class D felony if the defendant is alleged and proved to be an aggravated offender;

(5) A class C felony if the defendant is alleged and proved to be a chronic offender;

(6) A class B felony if the defendant is alleged and proved to be a habitual offender.

4. A person found guilty of the offense of driving with an excessive blood alcohol content as a first offense shall not be granted a suspended imposition of sentence:

(1) Unless such person shall be placed on probation for a minimum of two years; or

(2) In a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, and where the offense was committed with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless the individual participates in and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

5. If a person is not granted a suspended imposition of sentence for the reasons described in subsection 4 of this section:

(1) If the individual operated the vehicle with fifteen-hundredths to twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than forty-eight hours;

(2) If the individual operated the vehicle with greater than twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than five days.

**6. If a person is found guilty of a second or subsequent offense of driving with an excessive blood alcohol content, the court may order the person to submit to a period of**

**continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four times per day as a condition of probation.**

7. A person found guilty of driving with excessive blood alcohol content:

(1) As a prior offender, persistent offender, aggravated offender, chronic offender or habitual offender shall not be granted a suspended imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

(2) As a prior offender shall not be granted parole or probation until he or she has served a minimum of ten days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available, and as part of either program, the offender performs at least thirty days of community service under the supervision of the court;

(3) As a persistent offender shall not be granted parole or probation until he or she has served a minimum of thirty days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available, and as part of either program, the offender performs at least sixty days of community service under the supervision of the court;

(4) As an aggravated offender shall not be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment;

(5) As a chronic offender shall not be eligible for parole or probation until he or she has served a minimum of two years imprisonment; **and**

**(6) Any probation or parole granted under this subsection may include a period of continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four times per day.**

**577.013. BEGINNING JANUARY 1, 2017 — BOATING WHILE INTOXICATED — SENTENCING RESTRICTIONS.** — 1. A person commits the offense of boating while intoxicated if he or she operates a vessel while in an intoxicated condition.

2. The offense of boating while intoxicated is:

(1) A class B misdemeanor;

(2) A class A misdemeanor if:

(a) The defendant is a prior boating offender; or

(b) A person less than seventeen years of age is present in the vessel;

(3) A class E felony if:

(a) The defendant is a persistent boating offender; or

(b) While boating while intoxicated, the defendant acts with criminal negligence to cause physical injury to another person;

(4) A class D felony if:

(a) The defendant is an aggravated boating offender;

(b) While boating while intoxicated, the defendant acts with criminal negligence to cause physical injury to a law enforcement officer or emergency personnel; or

(c) While boating while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to another person;

(5) A class C felony if:

(a) The defendant is a chronic boating offender;

(b) While boating while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to a law enforcement officer or emergency personnel; or

(c) While boating while intoxicated, the defendant acts with criminal negligence to cause the death of another person;

(6) A class B felony if:

(a) The defendant is a habitual boating offender; or

(b) While boating while intoxicated, the defendant acts with criminal negligence to cause the death of a law enforcement officer or emergency personnel;

(7) A class A felony if the defendant is a habitual offender as a result of being found guilty of an act described under paragraph (d) of subdivision [(11)] (12) of section 577.001 and is found guilty of a subsequent violation of such paragraph.

3. Notwithstanding the provisions of subsection 2 of this section, a person found guilty of the offense of boating while intoxicated as a first offense shall not be granted a suspended imposition of sentence:

(1) Unless such person shall be placed on probation for a minimum of two years; or

(2) In a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, and where the offense was committed with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless the individual participates in and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

**4. If a person is found guilty of a second or subsequent offense of boating while intoxicated, the court may order the person to submit to a period of continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four times per day as a condition of probation.**

5. If a person is not granted a suspended imposition of sentence for the reasons described in subsection 3 of this section:

(1) If the individual operated the vessel with fifteen- hundredths to twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than forty-eight hours;

(2) If the individual operated the vessel with greater than twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than five days.

[5.] **6.** A person found guilty of the offense of boating while intoxicated:

(1) As a prior boating offender, persistent boating offender, aggravated boating offender, chronic boating offender or habitual boating offender shall not be granted a suspended imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

(2) As a prior boating offender shall not be granted parole or probation until he or she has served a minimum of ten days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least two hundred forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available;

(3) As a persistent offender shall not be eligible for parole or probation until he or she has served a minimum of thirty days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least four hundred eighty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available;

(4) As an aggravated boating offender shall not be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment;

(5) As a chronic boating offender shall not be eligible for parole or probation until he or she has served a minimum of two years imprisonment; **and**

**(6) Any probation or parole granted under this subsection may include a period of continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four times per day.**

**577.014. BEGINNING JANUARY 1, 2017—BOATING WITH EXCESSIVE BLOOD ALCOHOL CONTENT—PENALTIES—SENTENCING RESTRICTIONS.**— 1. A person commits the offense of boating with excessive blood alcohol content if he or she operates a vessel while having eight-hundredths of one percent or more by weight of alcohol in his or her blood.

2. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with the provisions of sections 577.020 to 577.041.

3. The offense of boating with excessive blood alcohol content is:

- (1) A class B misdemeanor;
- (2) A class A misdemeanor if the defendant is alleged and proved to be a prior boating offender;
- (3) A class E felony if the defendant is alleged and proved to be a persistent boating offender;
- (4) A class D felony if the defendant is alleged and proved to be an aggravated boating offender;
- (5) A class C felony if the defendant is alleged and proved to be a chronic boating offender;
- (6) A class B felony if the defendant is alleged and proved to be a habitual boating offender.

4. A person found guilty of the offense of boating with excessive blood alcohol content as a first offense shall not be granted a suspended imposition of sentence:

- (1) Unless such person shall be placed on probation for a minimum of two years; or
- (2) In a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, and where the offense was committed with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood unless the individual participates in and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

5. When a person is not granted a suspended imposition of sentence for the reasons described in subsection 4 of this section:

- (1) If the individual operated the vessel with fifteen-hundredths to twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than forty-eight hours;
- (2) If the individual operated the vessel with greater than twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than five days.

**6. If a person is found guilty of a second or subsequent offense of boating with an excessive blood alcohol content, the court may order the person to submit to a period of continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four times per day as a condition of probation.**

7. A person found guilty of the offense of boating with excessive blood alcohol content:

(1) As a prior boating offender, persistent boating offender, aggravated boating offender, chronic boating offender or habitual boating offender shall not be granted a suspended imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

(2) As a prior boating offender, shall not be granted parole or probation until he or she has served a minimum of ten days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least two hundred forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available;

(3) As a persistent boating offender, shall not be granted parole or probation until he or she has served a minimum of thirty days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least four hundred eighty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available;

(4) As an aggravated boating offender, shall not be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment;

(5) As a chronic boating offender, shall not be eligible for parole or probation until he or she has served a minimum of two years imprisonment; **and**

**(6) Any probation or parole granted under this subsection may include a period of continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four times per day.**

**SECTION B. EMERGENCY CLAUSE.** — The repeal and reenactment of sections 302.010, 302.060, 302.304, 302.309, 302.525, 302.574, 577.001, 577.010, 577.012, 577.013, and 577.014 of this act shall become effective on January 1, 2017.

Approved July 13, 2015

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SB 272 [SB 272]

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

**Changes the laws regarding motor vehicle height and weight limits in certain city commercial zones**

AN ACT to repeal section 304.190, RSMo, and to enact in lieu thereof one new section relating to municipal commercial zones.

SECTION

A. Enacting clause.

304.190. Height and weight regulations (cities of 75,000 or more) — commercial zone defined.

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

**SECTION A. ENACTING CLAUSE.** — Section 304.190, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.190, to read as follows:

**304.190. HEIGHT AND WEIGHT REGULATIONS (CITIES OF 75,000 OR MORE) — COMMERCIAL ZONE DEFINED.** — 1. No motor vehicle, unladen or with load, operating exclusively within the corporate limits of cities containing seventy-five thousand inhabitants or more or within two miles of the corporate limits of the city or within the commercial zone of the city shall exceed fifteen feet in height.

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2. No motor vehicle operating exclusively within any said area shall have a greater weight than twenty-two thousand four hundred pounds on one axle.

3. The "commercial zone" of the city is defined to mean that area within the city together with the territory extending one mile beyond the corporate limits of the city and one mile additional for each fifty thousand population or portion thereof provided, however:

(1) The commercial zone surrounding a city not within a county shall extend twenty-five miles beyond the corporate limits of any such city not located within a county and shall also extend throughout any county with a charter form of government which adjoins that city and throughout any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants that is adjacent to such county adjoining such city;

(2) The commercial zone of a city with a population of at least four hundred thousand inhabitants but not more than four hundred fifty thousand inhabitants shall extend twelve miles beyond the corporate limits of any such city; except that this zone shall extend from the southern border of such city's limits, beginning with the western-most freeway, following said freeway south to the first intersection with a multilane undivided highway, where the zone shall extend south along said freeway to include a city of the fourth classification with more than eight thousand nine hundred but less than nine thousand inhabitants, and shall extend north from the intersection of said freeway and multilane undivided highway along the multilane undivided highway to the city limits of a city with a population of at least four hundred thousand inhabitants but not more than four hundred fifty thousand inhabitants, and shall extend east from the city limits of a special charter city with more than two hundred seventy-five but fewer than three hundred seventy-five inhabitants along State Route 210 and northwest from the intersection of State Route 210 and State Route 10 to include the boundaries of any city of the third classification with more than ten thousand eight hundred but fewer than ten thousand nine hundred inhabitants and located in more than one county. The commercial zone shall continue east along State Route 10 from the intersection of State Route 10 and State Route 210 to the eastern city limit of a city of the fourth classification with more than five hundred fifty but fewer than six hundred twenty-five inhabitants and located in any county of the third classification without a township form of government and with more than twenty-three thousand but fewer than twenty-six thousand inhabitants and with a city of the third classification with more than five thousand but fewer than six thousand inhabitants as the county seat. The commercial zone described in this subdivision shall be extended to also include the stretch of State Route 45 from its intersection with Interstate 29 extending northwest to the city limits of any village with more than forty but fewer than fifty inhabitants and located in any county of the first classification with more than eighty-three thousand but fewer than ninety-two thousand inhabitants and with a city of the fourth classification with more than four thousand five hundred but fewer than five thousand inhabitants as the county seat;

(3) The commercial zone of a city of the third classification with more than nine thousand six hundred fifty but fewer than nine thousand eight hundred inhabitants shall extend south from the city limits along U.S. Highway 61 to the intersection of State Route OO in a county of the third classification without a township form of government and with more than seventeen thousand eight hundred but fewer than seventeen thousand nine hundred inhabitants;

(4) The commercial zone of a home rule city with more than one hundred eight thousand but fewer than one hundred sixteen thousand inhabitants **and located in a county of the first classification with more than one hundred fifty thousand but fewer than two hundred thousand inhabitants** shall extend north from the city limits along U.S. Highway 63 [for eight miles, and], **a state highway, to the intersection of State Route NN, and shall continue west and south along State Route NN to the intersection of State Route 124, and shall extend east from the intersection along State Route 124 to U.S. Highway 63.** **The commercial zone described in this subdivision** shall also extend east from the city limits along State Route WW to the intersection of State Route J and continue south on State Route J for four miles.

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4. In no case shall the commercial zone of a city be reduced due to a loss of population. The provisions of this section shall not apply to motor vehicles operating on the interstate highways in the area beyond two miles of a corporate limit of the city unless the United States Department of Transportation increases the allowable weight limits on the interstate highway system within commercial zones. In such case, the mileage limits established in this section shall be automatically increased only in the commercial zones to conform with those authorized by the United States Department of Transportation.

5. Nothing in this section shall prevent a city, county, or municipality, by ordinance, from designating the routes over which such vehicles may be operated.

6. No motor vehicle engaged in interstate commerce, whether unladen or with load, whose operations in the state of Missouri are limited exclusively to the commercial zone of a first class home rule municipality located in a county with a population between eighty thousand and ninety-five thousand inhabitants which has a portion of its corporate limits contiguous with a portion of the boundary between the states of Missouri and Kansas, shall have a greater weight than twenty-two thousand four hundred pounds on one axle, nor shall exceed fifteen feet in height.

Approved June 12, 2015

SB 317 [SB 317]

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

**Allows the Governor to convey properties located in Pulaski County, Christian County, St. Charles County, and St. Louis County to the State Highways and Transportation Commission**

AN ACT to authorize the conveyance by the governor of property owned by the state of Missouri to the state highways and transportation commission.

SECTION

- A. Enacting clause.
1. Conveyance of property along State Highway Route 2, Pulaski County.
  2. Conveyance of Route 60 property, Christian County to state highways and transportation commission.
  3. Conveyance of Route 60 property, Christian County to state highways and transportation commission.
  4. Conveyance of Highway 94 West Clay Road property, St. Charles County to state highways and transportation commission.
  5. Conveyance of Mark Twain expressway, St. Louis County to state highways and transportation commission.

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

**SECTION 1. CONVEYANCE OF PROPERTY ALONG STATE HIGHWAY ROUTE 2, PULASKI COUNTY.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Pulaski County, along State Highway Route Z (formerly Route 17 and Route 66), to the state highways and transportation commission. The property to be conveyed is more particularly described as follows:

**Beginning at the southwest corner of the said NE ¼ of Sec. 28, thence N1°23'W 1318.8 feet to the northwest corner of the SW ¼ of NE ¼ of said Sec. 28, thence N 1°24'W 644 feet with the west boundary of the NW ¼ of NE ¼ of said Sec. 28, thence N 82°57'E 2464.1 feet to an iron pipe marking the southwest corner of the**

school tract, thence N 89°34'E 212.6 feet along the south line of the school tract to the east line of the NE ¼ of Sec. 28, thence S 1°18'E along said east line 191.8 feet to station 1087+37.1 (north lane Route 66), thence continue S 1°18'E 172.8 feet, thence S 83°13'W 800.7 feet to a point opposite and 100 feet from P.T. station 1079+10 (south lane), thence S 73°34'W 1535.8 feet to a point opposite and 150 feet from station 1063+45.6 (south lane) thence S 14°39'W 810.8 feet to a point opposite and 200 feet from station 9+52.7 (theoretical center line of Route 17), thence from a tangent bearing S 23°46'E deflect to the right on a curve whose radius is 2864.9 feet a distance of approximately 623 feet to the south boundary of the NE ¼ of Sec. 28, thence westerly with the said south boundary approximately 344 feet to the place of beginning. Containing 33.84 acres more or less, new right of way and 5.16 acres more or less, in present Routes 17 and 66.

2. The commissioner of administration shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance. Conveyance of Route 60 property, Christian County to state highways and transportation commission.

**SECTION 2. CONVEYANCE OF ROUTE 60 PROPERTY, CHRISTIAN COUNTY TO STATE HIGHWAYS AND TRANSPORTATION COMMISSION. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Christian County, Route 60, to the state highways and transportation commission. The property to be conveyed is more particularly described as follows:**

That part of the N1/2 of NW1/4 of Sec. 2, Twp. 27N, R24W, south of the right of way of the St. Louis-San Francisco Railroad, being in a tract of land 120 feet wide, except as noted, 60 feet of which, is on both sides of, adjacent to, parallel with and measured from the surveyed center line of the survey of the Missouri State Highway Department for said Route 60, which surveyed center line is described as follows:

**Tract 1**

Beginning at a point approximately 497 feet west and 50 feet south of the southeast corner of the NW¼ of NW¼ of said Sec. 2 at survey station 320+80, thence N55°33'E 848.6 feet to P.C. at station 329+28.6, thence deflect to the left on a curve whose radius is 5729.7 feet a distance of 1421.4 feet to station 343+50, which point is approximately 78 feet north of and 85 feet west of the northeast corner of the said NW¼ of Sec. 2. Containing 5.65 acres, more or less, new right of way, and 0.07 acre, more or less, now in county road.

**Tract 2**

Also a tract 30 feet wide and 80 feet long adjoining tract 1 on its left or northwesterly side running north from a point opposite station 328+00. Containing 0.06 acre, more or less, for drainage ditch outlet.

**Tract 3**

Also a tract 50 feet wide and 75 feet long adjoining tract 1 on its right or southeasterly side and extending from a point opposite station 327+85 to a point

opposite station 328+60. Containing 0.09 acre, more or less, for drainage ditch outlet.

**Tract 4**

Also a tract lying northwesterly of tract 1 and southeasterly of the right of way of the said railroad described as beginning opposite station 333+00 and running northeasterly to the north boundary of said Sec. 2. Containing 0.89 acre, more or less, new right of way, and 0.04 acre, more or less, in county road.

**Tract 5**

Also a tract 25 feet wide and 85 feet long adjoining tract 1 on its right or southeasterly side and running southeasterly from a point opposite station 337+89. Containing 0.05 acre, more or less, for drainage ditch outlet.

**Tract 6**

Also a tract adjoining tract 1 on its right or southeasterly side beginning on the southeasterly boundary of said tract 1 opposite station 341+00, thence northeasterly approximately 236 feet towards a point that is 170 feet from and opposite station 343+75 to a point on the east boundary of said NW $\frac{1}{4}$  of Sec. 2 approximately 45 feet south of the northeast corner thereof, thence north with said east boundary 45 feet, thence west approximately 75 feet to tract 1, thence southwesterly with tract 1 approximately 200 feet to the point of beginning. Containing 0.20 acre, more or less, new right of way, and 0.02 acre, more or less, now in county road.

2. The commissioner of administration shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

**SECTION 3. CONVEYANCE OF ROUTE 60 PROPERTY, CHRISTIAN COUNTY TO STATE HIGHWAYS AND TRANSPORTATION COMMISSION.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Christian County, Route 60, to the state highways and transportation commission. The property to be conveyed is more particularly described as follows:

That part of the SE $\frac{1}{4}$  of SW $\frac{1}{4}$  and the West Half of SE $\frac{1}{4}$ , (southeasterly of the St. Louis-San Francisco Railroad), and the NE $\frac{1}{4}$  of SE $\frac{1}{4}$ , all in Sec.35, Twp. 28N, R24W, being in a tract of land 120 feet wide, except as noted, 60 feet of which, except as noted, is on both sides of, adjacent to, parallel with and measured from the surveyed centerline of the survey of the Missouri State Highway Department for said Route 60, which surveyed center line is described as follows:

**Tract 1**

Beginning at a point approximately 92 feet south and 185 feet west of the southeast corner of the said SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Sec. 35 at survey station 341+15, thence from a tangent bearing N43°41'E deflect to the left on a curve whose radius is 5729.7 feet a distance of 756.9 feet to a P.T. at station 348+71.9, thence N36°07'E 2728.1 feet to station 376+00, which point is approximately 520 feet

east and 40 feet north of the northwest corner of said NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Sec. 35. Containing 9.03 acres, more or less, new right of way, and 0.07 acre, more or less, in county road.

**Tract 2**

Also all that part of the SE $\frac{1}{4}$  of SW $\frac{1}{4}$  and the SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Sec. 35 that lies northwesterly of tract 1, southeasterly of the railroad right of way, and southwesterly of a line which begins on the northwesterly side of tract 1 opposite station 346+00 and runs N51°10'W approximately 85 feet to the railroad right of way. Containing 0.71 acre, more or less, new right of way.

**Tract 3**

Also a tract described as beginning on the right or southeasterly side of tract 1 opposite station 345+50, thence south 170 feet to the north boundary of the county road, thence southwesterly 30 feet to a point on the south boundary of the said SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Sec. 35, 170 feet from and opposite station 344+00, thence west approximately 150 feet to tract 1, thence northeasterly with tract 1 to the point of beginning. Containing 0.29 acre, more or less, new right of way, and 0.03 acre more or less, in county road.

**Tract 4**

Also a tract 5 feet wide and approximately 365 feet long lying adjacent to tract 1 on its northwesterly side beginning opposite station 371+50 and extending northeasterly to the north property boundary. Containing 0.04 acre, more or less, new right of way.

**Tract 5**

Also a tract 10 feet wide and approximately 505 feet long lying adjacent to tract 1 on its southeasterly side beginning opposite station 371+00 and extending northeasterly to the north property boundary. Containing 0.12 acre, more or less, new right of way.

**Tract 6**

Also a tract 30 feet wide and 100 feet long adjoining tract 1 on its northwesterly side and extending from a point opposite station 368+00 to a point opposite station 369+00. Containing 0.07 acre, more or less, for construction easement.

**Tract 7**

Also a tract 5 feet wide and 60 feet long adjoining tract 4 on its northwesterly side and extending from a point opposite station 374+50 to a point opposite station 375+10. Containing 0.01 acre, more or less, for construction easement.

2. The commissioner of administration shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

**SECTION 4. CONVEYANCE OF HIGHWAY 94 WEST CLAY ROAD PROPERTY, ST. CHARLES COUNTY TO STATE HIGHWAYS AND TRANSPORTATION COMMISSION.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located

in St. Charles County, Highway 94 West Clay Road to the state highways and transportation commission. The property to be conveyed is more particularly described as follows:

A strip of land out of Block 6 Survey Number 3280, Common of St. Charles being more particularly described as follows:

Beginning at the point of intersection of the centerline of the present Salt River Public Road with the land line dividing J T Robbins on the west and Max Langstadt on the east; thence northeasterly along said land line a distance of 37 feet to a point which is 35 distant northeasterly from the center line of the proposed State Highway; thence S 77° 15' E parallel with and 35 feet distant from said centerline of proposed state highway a distance of 20 feet; thence 12° 45' W at right angles a distance of 5 feet a point which is 30 feet distant from center line of proposed state highway at its station number 1392+00; thence 77° 15' E parallel with and 30 feet dist. from said center line of proposed state highway a distance of 500 feet; thence N12° 45' E at right angles a distance of 5 feet; thence S 77° 15' E parallel with and 35 feet from the center line of proposed state highway a distance of 100 feet; thence S 12° 45' W at right angles a distance of 5 feet thence S 77° 15' E parallel with and 30 feet distant from center line of proposed state Highway a distance of 131.1 feet to a point opposite its station number 1399+31.1; thence S 80° 52' E parallel with and 30 feet distant from said center line of proposed state highway a distance of 378.9 feet; thence following a curve to the left having a radius of 492 feet parallel with and 30 feet distant from said center line of proposed State Highway a distance of 425 feet to a point opposite its station number 1407+61.8; thence N 49° 26' E parallel with and 30 feet distant from said center line of proposed state highway a distance of 632 feet to a point opposite its station Number 1414+32 which is the land line dividing Max Langstadt on the south and Lindenwood College grounds on the north; thence easterly along said line approximately 35 feet to the center line for the proposed state highway, thence southwesterly along said center line a distance of 632 feet; thence following a curve to the right along said center line a distance of 461 feet; thence in a northwesterly direction along said center line of proposed state highway a distance of 1360 feet to place of beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

**SECTION 5. CONVEYANCE OF MARK TWAIN EXPRESSWAY, ST. LOUIS COUNTY TO STATE HIGHWAYS AND TRANSPORTATION COMMISSION.** — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in St. Louis County, Route 40 (now known as Mark Twain Expressway), to the state highways and transportation commission. The property to be conveyed is more particularly described as follows:

The following tracts or parcels of land in Lot 4, and part of Lot 5 of the Lewellyn Brown Estate Partition in U.S. Survey 656, Township 46 North, Range 6 East, for the Mark Twain Expressway (Route 40), the centerline of which is described as follows:

Beginning at a point on Line "A" at Station 439+40.19 on the centerline of said Mark Twain Expressway (Route 40) at its intersection with the western line of Lot 4 of said Lewellyn Brown Estate Partition, which point bears south 6 degrees 30 minutes west a distance of 1415 feet from the northwest corner of said Lot 4; thence eastwardly along said centerline north 79 degrees 32 minutes 20 seconds east a distance of 374.57 feet to Equation Station 443+14.76 backward equals Station 442+49.39 forward; thence continuing along said centerline north 79 degrees 32 minutes 20 seconds east a distance of 71.38 feet to a point on said centerline on a spiral curve to the right having a spiral angle of 3 degrees, 30 minutes, and a length of 200 feet to a point on said centerline at Station 445+20.77; thence continuing eastwardly along said centerline on a circular curve to the right having a radius of 1637.28 feet a distance of 425.78 feet to a point on said centerline at Station 449+46.55 said point being the intersection of the centerline of Mark Twain Expressway (Route 40) and of State Highway S.T.T.; thence continuing eastwardly on said centerline of said Mark Twain Expressway (Route 40), and on said circular curve thereof a distance of 140.45 feet to a point on said centerline at Station 450+87, said point being also the intersection of the above described centerline and the centerline of Brown Road.

The centerline of State Highway S.T.T., hereinafter referred to as the centerline of State Highway S.T.T., is described as, beginning at a point at Station 449+46.55 on the centerline of Mark Twain Expressway (Route 40) as described above, which point is the intersection of the centerline of said Mark Twain Expressway (Route 40), and the centerline of State Highway S.T.T. at Station 163+52.54; thence northwardly on a circular curve to the left having a radius of 1432.69 feet, and tangent to a line bearing north 18 degrees 14 minutes, 32 seconds west along the centerline of State Highway S.T.T., a distance of 506.83 feet to a point at Station 158+45.71; thence continuing northwardly along the centerline of State Highway S.T.T. on a spiral curve to the left having a length of 150 feet, and a spiral angle of 3 degrees 00 minutes a distance of 150 feet to a point at Station 156+95.71.

Also from the point of beginning on the centerline of State Highway S.T.T., at Station 163+52.54 as described in paragraph first above; thence southwardly on a circular curve to the right having a radius of 1432.69 feet and tangent to a line bearing south 18 degrees 14 minutes 32 seconds east along the centerline of State Highway S.T.T., a distance of 520.67 feet to a point on said centerline at Station 168+73.21; thence continuing southwardly along the centerline of State Highway S.T.T., on a spiral curve to the right having a length of 150 feet and a spiral angle of 3 degrees 00 minutes a distance of 150 feet to a point at Station 170+23.21 on said centerline; thence continuing southwardly along said centerline of State Highway S.T.T., south 5 degrees 35 minutes .04 seconds west a distance of 868.98 feet to Station 178+92.19, which point is the intersection of said centerline with the northern line of Natural Bridge Road.

#### Tract 1

All of the grantors land included between a line parallel to and 150 feet northwardly from the above described centerline of the Mark Twain Expressway (Route 40) and line parallel to and 150 feet southwardly from said centerline. Also additional parcels of land described as follows:

#### Tract 2

Beginning a point on the northern line of parcel heretofore described in Tract #1, said point being 150 feet northwardly from and perpendicular to the centerline

of said Mark Twain Expressway (Route 40) at Station 443+14.76; thence northwestwardly in a straight line to a point on the eastern line of Airport Road (80 feet wide), said point being 320 feet northwardly from the intersection of said centerline of Mark Twain Expressway (Line "A") with the eastern line of said Airport Road; thence westwardly at right angles to the centerline of Airport Road a distance of 40 feet to a point on its centerline, said centerline being also the western line of Lot 4 of the Lewellyn Brown Estate Partition; thence southwardly along said western line of Lot 4 a distance of 175.38 feet to a point on said western line of Lot 4 where it intersects the northern line of above described Tract #1; thence eastwardly along said northern line of said Tract #1 to the point of beginning.

#### Tract 3

Beginning at a point on the northern line of the parcel of land described above in Tract #1, said point being 150 feet northwardly from, and perpendicular to the previously described centerline of the Mark Twain Expressway (Route 40) at Station 444+50; thence continuing northwardly and perpendicular to said centerline at Station 444+50 a distance of 150 feet to a point; thence northeastwardly in a straight line to a point on the centerline of State Highway S.T.T. at Station 157+50 as heretofore described; thence northwestwardly along the centerline of said State Highway S.T.T. a distance of 54.29 feet to Station 156+95.71 on said centerline; thence eastwardly perpendicular to said centerline at Station 156+95.71 a distance of 40 feet to a point on the northeasterly right of way line of Airport Road (Southeast); thence south 41 degrees 30 minutes 56 seconds east along said northeasterly right of way line of Airport Road (Southeast) a distance of 304.29 feet to a point; thence south 86 degrees 30 minutes 56 seconds east to a point in grantor's easterly property line, said point being on the centerline of Brown Road (40 feet wide), and being all of grantor's land lying between the above described line, the centerline of Brown Road and the northern line of the parcel of land above described in Tract #1.

#### Tract 4

Beginning at a point on the southern line of the parcel of land described above in Tract #1, said point being 150 feet southwardly from and perpendicular to the previously described centerline of said Mark Twain Expressway (Route 40) at Station 445+00; thence southwardly in a straight line a distance of 277.73 feet to a point, said point being 425.06 feet southwardly from and perpendicular to the centerline of said Mark Twain Expressway at Station 445+48; thence southeastwardly in a straight line a distance of 383.41 to a point, said point being 50 feet westwardly from and perpendicular to the previously described centerline of Route S.T.T. at Station 168+70.41; thence eastwardly to the centerline of Route S.T.T. at Station 168+70.41; thence continuing eastwardly in a straight line perpendicular to the centerline of Route S.T.T. to a point on the centerline of Brown Road being also grantor's easterly property line and being all of the grantors land lying between the above described line, the centerline of Brown Road and the southern line of the parcel of land described above in Tract #1.

#### Tract 5

Also a parcel of land bounded as follows: On the north by the southern line of parcel last above described in Tract #4 on the east by grantor's eastern property line; being the centerline of Brown Road (40 feet wide), on the west by a line parallel to and 50 feet westwardly from the centerline of State Highway S.T.T. as heretofore described, on the south by the northern line of Natural Bridge Road.

**Tract 6**

**A triangular parcel of land in the southwestern corner of Lot 4 of the Lewellyn Brown Estate Partition described as beginning at the intersection of the western line of said Lot 4 with the northern line of Natural Bridge Road; thence eastwardly along the northern line of Natural Bridge Road a distance of 254 feet to a point; thence northeastwardly to a point on the western line of said Lot 4, said point being 50 feet northwardly along said western line of Lot 4 from the point of beginning; thence 50 feet southwardly along said western line of said Lot 4 to the point of beginning.**

**All of the foregoing tracts contain approximately 16.15 acres, exclusive of that portion heretofore dedicated as public roads.**

**2. The commissioner of administration shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.**

**3. The attorney general shall approve the form of the instrument of conveyance.**

Approved July 10, 2015

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SB 318 [SB 318]

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

**Designates the "Billy Yates Highway" in Ripley County**

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

**SECTION**

A. Enacting clause.

227.428. Randy Bever Memorial Highway designated for portion of Business Highway 71 in Andrew County.

227.524. Ray-Carroll County Veterans Memorial Highway designated for portion of Highway 10.

227.525. Billy Yates Highway designated for portion of U.S. Highway 160 in Ripley County.

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

**SECTION A. ENACTING CLAUSE.** — Chapter 227, RSMo, is amended by adding thereto three new sections, to be known as sections 227.428, 227.524, and 227.525, to read as follows:

**227.428. RANDY BEVER MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF BUSINESS HIGHWAY 71 IN ANDREW COUNTY.** — The portion of Business Highway 71 from the Interstate 29 intersection traveling north for two miles and located in Andrew County shall be designated as the "Randy Bever Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway with the cost for such designation to be paid by private donation.

**227.524. RAY-CARROLL COUNTY VETERANS MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 10.** — The portion of Highway 10 from the western border of the city limits of Norborne in Carroll County to the eastern border of the city limits of Hardin in Ray County shall be designated the "Ray-Carroll County Veterans Memorial

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**Highway". The department of transportation shall erect and maintain appropriate signs designating such highway with costs to be paid by private donations.**

**227.525. BILLY YATES HIGHWAY DESIGNATED FOR PORTION OF U.S. HIGHWAY 160 IN RIPLEY COUNTY.— The portion of U.S. Highway 160 in Ripley County which is located within the city limits of Doniphan shall be designated the "Billy Yates Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donation.**

Approved June 25, 2015

SB 321 [SCS SB 321]

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

**Allows victims of sexual assault to receive protective orders and modifies the definitions of sexual assault and stalking as they relate to orders of protection**

AN ACT to repeal sections 455.010, 455.020, 455.032, 455.040, 455.045, 455.050, 455.080, 455.503, 455.505, 455.513, 455.520, and 455.523, RSMo, section 455.085 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 455.085 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, section 455.538 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 455.538 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, and to enact in lieu thereof fourteen new sections relating to court orders of protection that prohibit contact with victims of sexual offenses, with penalty provisions.

SECTION

- A. Enacting clause.
- 455.010. Definitions.
- 455.020. Relief may be sought — order of protection effective, where.
- 455.032. Protection order, restraining respondent from abuse if petitioner is permanently or temporarily in state — evidence admissible of prior abuse in or out of state.
- 455.040. Hearings, when — duration of orders, renewal, requirements — copies of orders to be given, validity — duties of law enforcement agency — information entered in MULES.
- 455.045. Temporary relief available.
- 455.050. Full or ex parte order of protection, abuse, stalking, or sexual assault, contents — relief available.
- 455.080. Law enforcement agencies response to alleged incidents of domestic violence, stalking, or sexual assault — factors indicating need for immediate response — establishment of crisis team — transportation of abused party to medical treatment or shelter.
- 455.085. Beginning January 1, 2017 — Arrest for violation of order — penalties — good faith immunity for law enforcement officials.
- 455.085. Until December 31, 2016 — Arrest for violation of order — penalties — good faith immunity for law enforcement officials.
- 455.503. Venue — petition, who may file.
- 455.505. Relief may be sought for child for domestic violence, stalking, or sexual assault — order of protection effective, where.
- 455.513. Ex parte orders, issued when, effective when — for good cause shown, defined — investigation by children's division, when — report due when, available to whom — transfer to juvenile court, when.
- 455.520. Temporary relief available — ex parte orders.
- 455.523. Full order of protection — relief available.
- 455.538. Beginning January 1, 2017 — Law enforcement agencies response to violation of order — arrest for violation, penalties — custody to be returned to rightful party, when.
- 455.538. Until December 31, 2016 — Law enforcement agencies response to violation of order — arrest for violation, penalties — custody to be returned to rightful party, when.

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

**SECTION A. ENACTING CLAUSE.** — Sections 455.010, 455.020, 455.032, 455.040, 455.045, 455.050, 455.080, 455.503, 455.505, 455.513, 455.520, and 455.523, RSMo, section 455.085 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 455.085 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, section 455.538 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 455.538 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 455.010, 455.020, 455.032, 455.040, 455.045, 455.050, 455.080, 455.085, 455.503, 455.505, 455.513, 455.520, 455.523, and 455.538, to read as follows:

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

(1) "Abuse" includes but is not limited to the occurrence of any of the following acts, attempts or threats against a person who may be protected pursuant to this chapter, except abuse shall not include abuse inflicted on a child by accidental means by an adult household member or discipline of a child, including spanking, in a reasonable manner:

(a) "Assault", purposely or knowingly placing or attempting to place another in fear of physical harm;

(b) "Battery", purposely or knowingly causing physical harm to another with or without a deadly weapon;

(c) "Coercion", compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage;

(d) "Harassment", engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to an adult or child and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable adult or child to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner or child. Such conduct might include, but is not limited to:

a. Following another about in a public place or places;

b. Peering in the window or lingering outside the residence of another; but does not include constitutionally protected activity;

(e) "Sexual assault", causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, [or] duress, **or without that person's consent**;

(f) "Unlawful imprisonment", holding, confining, detaining or abducting another person against that person's will;

(2) "Adult", any person seventeen years of age or older or otherwise emancipated;

(3) "Child", any person under seventeen years of age unless otherwise emancipated;

(4) "Court", the circuit or associate circuit judge or a family court commissioner;

(5) "Domestic violence", abuse or stalking committed by a family or household member, as such terms are defined in this section;

(6) "Ex parte order of protection", an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it;

(7) "Family" or "household member", spouses, former spouses, any person related by blood or marriage, persons who are presently residing together or have resided together in the past, any person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and anyone who has a child in common regardless of whether they have been married or have resided together at any time;

(8) "Full order of protection", an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard;

- (9) "Order of protection", either an ex parte order of protection or a full order of protection;
- (10) "Pending", exists or for which a hearing date has been set;
- (11) "Petitioner", a family or household member who has been a victim of domestic violence, or any person who has been the victim of stalking **or sexual assault**, or a person filing on behalf of a child pursuant to section 455.503 who has filed a verified petition pursuant to the provisions of section 455.020 or section 455.505;
- (12) "Respondent", the family or household member alleged to have committed an act of domestic violence, or person alleged to have committed an act of stalking **or sexual assault**, against whom a verified petition has been filed or a person served on behalf of a child pursuant to section 455.503;
- (13) **"Sexual assault", as defined under subdivision (1) of this section;**
- (14) "Stalking" is when any person purposely [and repeatedly] engages in an unwanted course of conduct that causes alarm to another person, **or a person who resides together in the same household with the person seeking the order of protection** when it is reasonable in that person's situation to have been alarmed by the conduct. As used in this subdivision:
- (a) "Alarm" means to cause fear of danger of physical harm; **and**
- (b) "Course of conduct" means a pattern of conduct composed of [repeated] **two or more** acts over a period of time, however short, that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or unwanted contact]; and
- (c) "Repeated" means two or more incidents evidencing a continuity of purpose].

**455.020. RELIEF MAY BE SOUGHT — ORDER OF PROTECTION EFFECTIVE, WHERE. —**

1. Any person who has been subject to domestic violence by a present or former family or household member, or who has been the victim of stalking **or sexual assault**, may seek relief under sections 455.010 to 455.085 by filing a verified petition alleging such domestic violence [or], stalking, **or sexual assault** by the respondent.
2. A person's right to relief under sections 455.010 to 455.085 shall not be affected by the person leaving the residence or household to avoid domestic violence.
3. Any protection order issued pursuant to sections 455.010 to 455.085 shall be effective throughout the state in all cities and counties.

**455.032. PROTECTION ORDER, RESTRAINING RESPONDENT FROM ABUSE IF PETITIONER IS PERMANENTLY OR TEMPORARILY IN STATE — EVIDENCE ADMISSIBLE OF PRIOR ABUSE IN OR OUT OF STATE. —** In addition to any other jurisdictional grounds provided by law, a court shall have jurisdiction to enter an order of protection restraining or enjoining the respondent from committing or threatening to commit domestic violence, stalking, **sexual assault**, molesting or disturbing the peace of petitioner, pursuant to sections 455.010 to 455.085, if the petitioner is present, whether permanently or on a temporary basis within the state of Missouri and if the respondent's actions constituting domestic violence have occurred, have been attempted or have been or are threatened within the state of Missouri. For purposes of this section, if the petitioner has been the subject of domestic violence within or outside of the state of Missouri, such evidence shall be admissible to demonstrate the need for protection in Missouri.

**455.040. HEARINGS, WHEN — DURATION OF ORDERS, RENEWAL, REQUIREMENTS — COPIES OF ORDERS TO BE GIVEN, VALIDITY — DUTIES OF LAW ENFORCEMENT AGENCY — INFORMATION ENTERED IN MULES. —** 1. Not later than fifteen days after the filing of a petition that meets the requirements of section 455.020, a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted. At the hearing, if the petitioner has proved the allegation of domestic violence [or], stalking, **or sexual assault** by a preponderance of the evidence, and the respondent cannot show that his or her actions alleged to constitute abuse were otherwise justified under the law, the court shall issue a full order of protection for a period of time the court deems appropriate, except that the protective order shall

be valid for at least one hundred eighty days and not more than one year. Upon motion by the petitioner, and after a hearing by the court, the full order of protection may be renewed for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year from the expiration date of the originally issued full order of protection. The court may, upon finding that it is in the best interest of the parties, include a provision that any full order of protection for one year shall automatically renew unless the respondent requests a hearing by thirty days prior to the expiration of the order. If for good cause a hearing cannot be held on the motion to renew or the objection to an automatic renewal of the full order of protection prior to the expiration date of the originally issued full order of protection, an ex parte order of protection may be issued until a hearing is held on the motion. When an automatic renewal is not authorized, upon motion by the petitioner, and after a hearing by the court, the second full order of protection may be renewed for an additional period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. For purposes of this subsection, a finding by the court of a subsequent act of domestic violence [or], stalking, **or sexual assault** is not required for a renewal order of protection.

2. The court shall cause a copy of the petition and notice of the date set for the hearing on such petition and any ex parte order of protection to be served upon the respondent as provided by law or by any sheriff or police officer at least three days prior to such hearing. The court shall cause a copy of any full order of protection to be served upon or mailed by certified mail to the respondent at the respondent's last known address. Notice of an ex parte or full order of protection shall be served at the earliest time, and service of such notice shall take priority over service in other actions, except those of a similar emergency nature. Failure to serve or mail a copy of the full order of protection to the respondent shall not affect the validity or enforceability of a full order of protection.

3. A copy of any order of protection granted pursuant to sections 455.010 to 455.085 shall be issued to the petitioner and to the local law enforcement agency in the jurisdiction where the petitioner resides. The clerk shall also issue a copy of any order of protection to the local law enforcement agency responsible for maintaining the Missouri uniform law enforcement system or any other comparable law enforcement system the same day the order is granted. The law enforcement agency responsible for maintaining MULES shall, for purposes of verification, within twenty-four hours from the time the order is granted, enter information contained in the order including but not limited to any orders regarding child custody or visitation and all specifics as to times and dates of custody or visitation that are provided in the order. A notice of expiration or of termination of any order of protection or any change in child custody or visitation within that order shall be issued to the local law enforcement agency and to the law enforcement agency responsible for maintaining MULES or any other comparable law enforcement system. The law enforcement agency responsible for maintaining the applicable law enforcement system shall enter such information in the system within twenty-four hours of receipt of information evidencing such expiration or termination. The information contained in an order of protection may be entered in the Missouri uniform law enforcement system or comparable law enforcement system using a direct automated data transfer from the court automated system to the law enforcement system.

4. The court shall cause a copy of any objection filed by the respondent and notice of the date set for the hearing on such objection to an automatic renewal of a full order of protection for a period of one year to be personally served upon the petitioner by personal process server as provided by law or by a sheriff or police officer at least three days prior to such hearing. Such service of process shall be served at the earliest time and shall take priority over service in other actions except those of a similar emergency nature.

**455.045. TEMPORARY RELIEF AVAILABLE.** — Any ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from domestic violence [or], stalking, **or sexual assault** and may include:

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- (1) Restraining the respondent from committing or threatening to commit domestic violence, molesting, stalking, **sexual assault**, or disturbing the peace of the petitioner;
- (2) Restraining the respondent from entering the premises of the dwelling unit of petitioner when the dwelling unit is:
  - (a) Jointly owned, leased or rented or jointly occupied by both parties; or
  - (b) Owned, leased, rented or occupied by petitioner individually; or
  - (c) Jointly owned, leased or rented by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a property interest in the dwelling unit; or
  - (d) Jointly occupied by the petitioner and a person other than the respondent; provided that the respondent has no property interest in the dwelling unit;
- (3) Restraining the respondent from communicating with the petitioner in any manner or through any medium;
- (4) A temporary order of custody of minor children where appropriate.

**455.050. FULL OR EX PARTE ORDER OF PROTECTION, ABUSE, STALKING, OR SEXUAL ASSAULT, CONTENTS — RELIEF AVAILABLE.** — 1. Any full or ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from domestic violence, **stalking, or sexual assault** and may include such terms as the court reasonably deems necessary to ensure the petitioner's safety, including but not limited to:

- (1) Temporarily enjoining the respondent from committing or threatening to commit domestic violence, molesting, stalking, **sexual assault**, or disturbing the peace of the petitioner;
  - (2) Temporarily enjoining the respondent from entering the premises of the dwelling unit of the petitioner when the dwelling unit is:
    - (a) Jointly owned, leased or rented or jointly occupied by both parties; or
    - (b) Owned, leased, rented or occupied by petitioner individually; or
    - (c) Jointly owned, leased, rented or occupied by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a property interest in the dwelling unit; or
    - (d) Jointly occupied by the petitioner and a person other than respondent; provided that the respondent has no property interest in the dwelling unit; or
  - (3) Temporarily enjoining the respondent from communicating with the petitioner in any manner or through any medium.
2. Mutual orders of protection are prohibited unless both parties have properly filed written petitions and proper service has been made in accordance with sections 455.010 to 455.085.
3. When the court has, after a hearing for any full order of protection, issued an order of protection, it may, in addition:
- (1) Award custody of any minor child born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best interests of the child require such order be issued;
  - (2) Establish a visitation schedule that is in the best interests of the child;
  - (3) Award child support in accordance with supreme court rule 88.01 and chapter 452;
  - (4) Award maintenance to petitioner when petitioner and respondent are lawfully married in accordance with chapter 452;
  - (5) Order respondent to make or to continue to make rent or mortgage payments on a residence occupied by the petitioner if the respondent is found to have a duty to support the petitioner or other dependent household members;
  - (6) Order the respondent to pay the petitioner's rent at a residence other than the one previously shared by the parties if the respondent is found to have a duty to support the petitioner and the petitioner requests alternative housing;
  - (7) Order that the petitioner be given temporary possession of specified personal property, such as automobiles, checkbooks, keys, and other personal effects;

(8) Prohibit the respondent from transferring, encumbering, or otherwise disposing of specified property mutually owned or leased by the parties;

(9) Order the respondent to participate in a court-approved counseling program designed to help batterers stop violent behavior or to participate in a substance abuse treatment program;

(10) Order the respondent to pay a reasonable fee for housing and other services that have been provided or that are being provided to the petitioner by a shelter for victims of domestic violence;

(11) Order the respondent to pay court costs;

(12) Order the respondent to pay the cost of medical treatment and services that have been provided or that are being provided to the petitioner as a result of injuries sustained to the petitioner by an act of domestic violence committed by the respondent.

4. A verified petition seeking orders for maintenance, support, custody, visitation, payment of rent, payment of monetary compensation, possession of personal property, prohibiting the transfer, encumbrance, or disposal of property, or payment for services of a shelter for victims of domestic violence, shall contain allegations relating to those orders and shall pray for the orders desired.

5. In making an award of custody, the court shall consider all relevant factors including the presumption that the best interests of the child will be served by placing the child in the custody and care of the nonabusive parent, unless there is evidence that both parents have engaged in abusive behavior, in which case the court shall not consider this presumption but may appoint a guardian ad litem or a court-appointed special advocate to represent the children in accordance with chapter 452 and shall consider all other factors in accordance with chapter 452.

6. The court shall grant to the noncustodial parent rights to visitation with any minor child born to or adopted by the parties, unless the court finds, after hearing, that visitation would endanger the child's physical health, impair the child's emotional development or would otherwise conflict with the best interests of the child, or that no visitation can be arranged which would sufficiently protect the custodial parent from further domestic violence. The court may appoint a guardian ad litem or court-appointed special advocate to represent the minor child in accordance with chapter 452 whenever the custodial parent alleges that visitation with the noncustodial parent will damage the minor child.

7. The court shall make an order requiring the noncustodial party to pay an amount reasonable and necessary for the support of any child to whom the party owes a duty of support when no prior order of support is outstanding and after all relevant factors have been considered, in accordance with Missouri supreme court rule 88.01 and chapter 452.

8. The court may grant a maintenance order to a party for a period of time, not to exceed one hundred eighty days. Any maintenance ordered by the court shall be in accordance with chapter 452.

**455.080. LAW ENFORCEMENT AGENCIES RESPONSE TO ALLEGED INCIDENTS OF DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT — FACTORS INDICATING NEED FOR IMMEDIATE RESPONSE — ESTABLISHMENT OF CRISIS TEAM — TRANSPORTATION OF ABUSED PARTY TO MEDICAL TREATMENT OR SHELTER.** — 1. Law enforcement agencies may establish procedures to ensure that dispatchers and officers at the scene of an alleged incident of domestic violence [or], stalking, **sexual assault**, or violation of an order of protection can be informed of any recorded prior incident of domestic violence [or], stalking, **or sexual assault** involving the abused party and can verify the effective dates and terms of any recorded order of protection.

2. The law enforcement agency shall apply the same standard for response to an alleged incident of domestic violence [or], stalking, **sexual assault**, or a violation of any order of protection as applied to any like offense involving strangers, except as otherwise provided by law. Law enforcement agencies shall not assign lower priority to calls involving alleged incidents of domestic violence [or], stalking, **sexual assault**, or violation of protection orders than

is assigned in responding to offenses involving strangers. Existence of any of the following factors shall be interpreted as indicating a need for immediate response:

- (1) The caller indicates that violence is imminent or in progress; or
- (2) A protection order is in effect; or
- (3) The caller indicates that incidents of domestic violence have occurred previously between the parties.

3. Law enforcement agencies may establish domestic crisis teams or, if the agency has fewer than five officers whose responsibility it is to respond to calls of this nature, individual officers trained in methods of dealing with domestic violence. Such teams or individuals may be supplemented by social workers, ministers or other persons trained in counseling or crisis intervention. When an alleged incident of domestic violence is reported, the agency may dispatch a crisis team or specially trained officer, if available, to the scene of the incident.

4. The officer at the scene of an alleged incident of domestic violence [or], stalking, **or sexual assault** shall inform the abused party of available judicial remedies for relief from domestic violence and of available shelters for victims of domestic violence.

5. Law enforcement officials at the scene shall provide or arrange transportation for the abused party to a medical facility for treatment of injuries or to a place of shelter or safety.

**455.085. BEGINNING JANUARY 1, 2017 — ARREST FOR VIOLATION OF ORDER — PENALTIES — GOOD FAITH IMMUNITY FOR LAW ENFORCEMENT OFFICIALS.** — 1. When a law enforcement officer has probable cause to believe a party has committed a violation of law amounting to domestic violence, as defined in section 455.010, against a family or household member, the officer may arrest the offending party whether or not the violation occurred in the presence of the arresting officer. When the officer declines to make arrest pursuant to this subsection, the officer shall make a written report of the incident completely describing the offending party, giving the victim's name, time, address, reason why no arrest was made and any other pertinent information. Any law enforcement officer subsequently called to the same address within a twelve-hour period, who shall find probable cause to believe the same offender has again committed a violation as stated in this subsection against the same or any other family or household member, shall arrest the offending party for this subsequent offense. The primary report of nonarrest in the preceding twelve-hour period may be considered as evidence of the defendant's intent in the violation for which arrest occurred. The refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

2. When a law enforcement officer has probable cause to believe that a party, against whom a protective order has been entered and who has notice of such order entered, has committed an act of abuse in violation of such order, the officer shall arrest the offending party-respondent whether or not the violation occurred in the presence of the arresting officer. Refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

3. When an officer makes an arrest, the officer is not required to arrest two parties involved in an assault when both parties claim to have been assaulted. The arresting officer shall attempt to identify and shall arrest the party the officer believes is the primary physical aggressor. The term "primary physical aggressor" is defined as the most significant, rather than the first, aggressor. The law enforcement officer shall consider any or all of the following in determining the primary physical aggressor:

- (1) The intent of the law to protect victims from continuing domestic violence;
- (2) The comparative extent of injuries inflicted or serious threats creating fear of physical injury;
- (3) The history of domestic violence between the persons involved.

No law enforcement officer investigating an incident of domestic violence shall threaten the arrest of all parties for the purpose of discouraging requests or law enforcement intervention by

any party. Where complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately to determine whether the officer should seek a warrant for an arrest.

4. In an arrest in which a law enforcement officer acted in good faith reliance on this section, the arresting and assisting law enforcement officers and their employing entities and superiors shall be immune from liability in any civil action alleging false arrest, false imprisonment or malicious prosecution.

5. When a person against whom an order of protection has been entered fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

6. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

7. A violation of the terms and conditions, with regard to domestic violence, stalking, **sexual assault**, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of an ex parte order of protection of which the respondent has notice, shall be a class A misdemeanor unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class E felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

8. A violation of the terms and conditions, with regard to domestic violence, stalking, **sexual assault**, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of a full order of protection shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class E felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of the sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict. For the purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection if the law enforcement officer responding to a call of a reported incident of domestic violence, stalking, **sexual assault**, or violation of an order of protection presented a copy of the order of protection to the respondent.

9. Good faith attempts to effect a reconciliation of a marriage shall not be deemed tampering with a witness or victim tampering under section 575.270.

10. Nothing in this section shall be interpreted as creating a private cause of action for damages to enforce the provisions set forth herein.

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**455.085. UNTIL DECEMBER 31, 2016 — ARREST FOR VIOLATION OF ORDER — PENALTIES — GOOD FAITH IMMUNITY FOR LAW ENFORCEMENT OFFICIALS. —** 1. When a law enforcement officer has probable cause to believe a party has committed a violation of law

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amounting to domestic violence, as defined in section 455.010, against a family or household member, the officer may arrest the offending party whether or not the violation occurred in the presence of the arresting officer. When the officer declines to make arrest pursuant to this subsection, the officer shall make a written report of the incident completely describing the offending party, giving the victim's name, time, address, reason why no arrest was made and any other pertinent information. Any law enforcement officer subsequently called to the same address within a twelve-hour period, who shall find probable cause to believe the same offender has again committed a violation as stated in this subsection against the same or any other family or household member, shall arrest the offending party for this subsequent offense. The primary report of nonarrest in the preceding twelve-hour period may be considered as evidence of the defendant's intent in the violation for which arrest occurred. The refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

2. When a law enforcement officer has probable cause to believe that a party, against whom a protective order has been entered and who has notice of such order entered, has committed an act of abuse in violation of such order, the officer shall arrest the offending party-respondent whether or not the violation occurred in the presence of the arresting officer. Refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

3. When an officer makes an arrest, the officer is not required to arrest two parties involved in an assault when both parties claim to have been assaulted. The arresting officer shall attempt to identify and shall arrest the party the officer believes is the primary physical aggressor. The term "primary physical aggressor" is defined as the most significant, rather than the first, aggressor. The law enforcement officer shall consider any or all of the following in determining the primary physical aggressor:

- (1) The intent of the law to protect victims from continuing domestic violence;
- (2) The comparative extent of injuries inflicted or serious threats creating fear of physical injury;
- (3) The history of domestic violence between the persons involved.

No law enforcement officer investigating an incident of domestic violence shall threaten the arrest of all parties for the purpose of discouraging requests or law enforcement intervention by any party. Where complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately to determine whether the officer should seek a warrant for an arrest.

4. In an arrest in which a law enforcement officer acted in good faith reliance on this section, the arresting and assisting law enforcement officers and their employing entities and superiors shall be immune from liability in any civil action alleging false arrest, false imprisonment or malicious prosecution.

5. When a person against whom an order of protection has been entered fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

6. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

7. A violation of the terms and conditions, with regard to domestic violence, stalking, **sexual assault**, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of an ex parte order of protection of which the respondent has notice, shall be a class A misdemeanor unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony.

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Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

8. A violation of the terms and conditions, with regard to domestic violence, stalking, **sexual assault**, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of a full order of protection shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of the sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict. For the purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection if the law enforcement officer responding to a call of a reported incident of domestic violence, stalking, **sexual assault**, or violation of an order of protection presented a copy of the order of protection to the respondent.

9. Good faith attempts to effect a reconciliation of a marriage shall not be deemed tampering with a witness or victim tampering under section 575.270.

10. Nothing in this section shall be interpreted as creating a private cause of action for damages to enforce the provisions set forth herein.

**455.503. VENUE — PETITION, WHO MAY FILE.** — 1. A petition for an order of protection for a child shall be filed in the county where the child resides, where the alleged incident of domestic violence [or], stalking, **or sexual assault** occurred, or where the respondent may be served.

2. Such petition may be filed by any of the following:

- (1) A parent or guardian of the victim;
- (2) A guardian ad litem or court-appointed special advocate appointed for the victim; or
- (3) The juvenile officer.

**455.505. RELIEF MAY BE SOUGHT FOR CHILD FOR DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT — ORDER OF PROTECTION EFFECTIVE, WHERE.** — 1. An order of protection for a child who has been subject to domestic violence by a present or former household member or [person] **sexual assault or stalking [the child] by any person** may be sought under sections 455.500 to 455.538 by the filing of a verified petition alleging such domestic violence [or], stalking, **or sexual assault** by the respondent.

2. A child's right to relief under sections 455.500 to 455.538 shall not be affected by the child's leaving the residence or household to avoid domestic violence.

3. Any protection order issued pursuant to sections 455.500 to 455.538 shall be effective throughout the state in all cities and counties.

**455.513. EX PARTE ORDERS, ISSUED WHEN, EFFECTIVE WHEN — FOR GOOD CAUSE SHOWN, DEFINED — INVESTIGATION BY CHILDREN'S DIVISION, WHEN — REPORT DUE WHEN, AVAILABLE TO WHOM — TRANSFER TO JUVENILE COURT, WHEN.** — 1. Upon the filing of a verified petition under sections 455.500 to 455.538, for good cause shown in the petition, and

upon finding that no prior order regarding custody is pending or has been made or that the respondent is less than seventeen years of age, the court may immediately issue an ex parte order of protection. An immediate and present danger of domestic violence [or], stalking, or **sexual assault** to a child shall constitute good cause for purposes of this section. An ex parte order of protection entered by the court shall be in effect until the time of the hearing. The court shall deny the ex parte order and dismiss the petition if the petitioner is not authorized to seek relief pursuant to section 455.505.

2. Upon the entry of the ex parte order of protection, the court shall enter its order appointing a guardian ad litem or court-appointed special advocate to represent the child victim.

3. If the allegations in the petition would give rise to jurisdiction under section 211.031, the court may direct the children's division to conduct an investigation and to provide appropriate services. The division shall submit a written investigative report to the court and to the juvenile officer within thirty days of being ordered to do so. The report shall be made available to the parties and the guardian ad litem or court-appointed special advocate.

4. If the allegations in the petition would give rise to jurisdiction under section 211.031 because the respondent is less than seventeen years of age, the court may issue an ex parte order and shall transfer the case to juvenile court for a hearing on a full order of protection. Service of process shall be made pursuant to section 455.035.

**455.520. TEMPORARY RELIEF AVAILABLE — EX PARTE ORDERS.** — 1. Any ex parte order of protection granted under sections 455.500 to 455.538 shall be to protect the victim from domestic violence [or], stalking, or **sexual assault** and may include such terms as the court reasonably deems necessary to ensure the victim's safety, including but not limited to:

- (1) Restraining the respondent from committing or threatening to commit domestic violence, stalking, **sexual assault**, molesting, or disturbing the peace of the victim;
- (2) Restraining the respondent from entering the family home of the victim except as specifically authorized by the court;
- (3) Restraining the respondent from communicating with the victim in any manner or through any medium, except as specifically authorized by the court;
- (4) A temporary order of custody of minor children.

2. No ex parte order of protection excluding the respondent from the family home shall be issued unless the court finds that:

- (1) The order is in the best interests of the child or children remaining in the home;
- (2) The verified allegations of domestic violence present a substantial risk to the child or children unless the respondent is excluded; and
- (3) A remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party.

**455.523. FULL ORDER OF PROTECTION — RELIEF AVAILABLE.** — 1. Any full order of protection granted under sections 455.500 to 455.538 shall be to protect the victim from domestic violence [and], stalking, and **sexual assault** may include such terms as the court reasonably deems necessary to ensure the petitioner's safety, including but not limited to:

- (1) Temporarily enjoining the respondent from committing domestic violence or **sexual assault**, threatening to commit domestic violence or **sexual assault**, stalking, molesting, or disturbing the peace of the victim;
- (2) Temporarily enjoining the respondent from entering the family home of the victim, except as specifically authorized by the court;
- (3) Temporarily enjoining the respondent from communicating with the victim in any manner or through any medium, except as specifically authorized by the court.

2. When the court has, after hearing for any full order of protection, issued an order of protection, it may, in addition:

- (1) Award custody of any minor child born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best interests of the child require such order be issued;
- (2) Award visitation;
- (3) Award child support in accordance with supreme court rule 88.01 and chapter 452;
- (4) Award maintenance to petitioner when petitioner and respondent are lawfully married in accordance with chapter 452;
- (5) Order respondent to make or to continue to make rent or mortgage payments on a residence occupied by the victim if the respondent is found to have a duty to support the victim or other dependent household members;
- (6) Order the respondent to participate in a court-approved counseling program designed to help stop violent behavior or to treat substance abuse;
- (7) Order the respondent to pay, to the extent that he or she is able, the costs of his or her treatment, together with the treatment costs incurred by the victim;
- (8) Order the respondent to pay a reasonable fee for housing and other services that have been provided or that are being provided to the victim by a shelter for victims of domestic violence.

**455.538. BEGINNING JANUARY 1, 2017 — LAW ENFORCEMENT AGENCIES RESPONSE TO VIOLATION OF ORDER — ARREST FOR VIOLATION, PENALTIES — CUSTODY TO BE RETURNED TO RIGHTFUL PARTY, WHEN.** — 1. When a law enforcement officer has probable cause to believe that a party, against whom a protective order for a child has been entered, has committed an act in violation of that order, the officer shall have the authority to arrest the respondent whether or not the violation occurred in the presence of the arresting officer.

2. When a person, against whom an order of protection for a child has been entered, fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

3. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

4. (1) Violation of the terms and conditions of an ex parte or full order of protection with regard to domestic violence, stalking, **sexual assault**, child custody, communication initiated by the respondent, or entrance upon the premises of the victim's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of which the respondent has notice, shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class E felony. Evidence of a prior plea of guilty or finding of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of a prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

(2) For purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection for a child if the law enforcement officer responding to a call of a reported incident of domestic violence [or], stalking, **sexual assault**, or violation of an order of protection for a child presents a copy of the order of protection to the respondent.

5. The fact that an act by a respondent is a violation of a valid order of protection for a child shall not preclude prosecution of the respondent for other crimes arising out of the incident in which the protection order is alleged to have been violated.

**455.538. UNTIL DECEMBER 31, 2016—LAW ENFORCEMENT AGENCIES RESPONSE TO VIOLATION OF ORDER — ARREST FOR VIOLATION, PENALTIES — CUSTODY TO BE RETURNED TO RIGHTFUL PARTY, WHEN.** — 1. When a law enforcement officer has probable cause to believe that a party, against whom a protective order for a child has been entered, has committed an act in violation of that order, the officer shall have the authority to arrest the respondent whether or not the violation occurred in the presence of the arresting officer.

2. When a person, against whom an order of protection for a child has been entered, fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

3. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

4. (1) Violation of the terms and conditions of an ex parte or full order of protection with regard to domestic violence, stalking, **sexual assault**, child custody, communication initiated by the respondent, or entrance upon the premises of the victim's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of which the respondent has notice, shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of a prior plea of guilty or finding of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of a prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

(2) For purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection for a child if the law enforcement officer responding to a call of a reported incident of domestic violence [or], stalking, **sexual assault**, or violation of an order of protection for a child presents a copy of the order of protection to the respondent.

5. The fact that an act by a respondent is a violation of a valid order of protection for a child shall not preclude prosecution of the respondent for other crimes arising out of the incident in which the protection order is alleged to have been violated.

Approved July 8, 2015

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SB 334 [SB 334]

**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 the boards of regents of state colleges and universities and broadens the degree-granting authority of Harris Stowe State University**

AN ACT to repeal sections 174.030, 174.310, and 174.332, RSMo, and to enact in lieu thereof three new sections relating to boards of regents of state colleges and universities.

SECTION

- A. Enacting clause.  
 174.030. Board authorized to change name — does not grant additional powers or authority — not to limit missions.  
 174.310. Harris-Stowe State University, transfer of facility — operation — funding — educational emphasis.
-

174.332. Northwest Missouri State University, board of regents, members, terms, appointment of, quorum requirements.

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

**SECTION A. ENACTING CLAUSE.** — Sections 174.030, 174.310, and 174.332, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 174.030, 174.310, and 174.332, to read as follows:

**174.030. BOARD AUTHORIZED TO CHANGE NAME — DOES NOT GRANT ADDITIONAL POWERS OR AUTHORITY — NOT TO LIMIT MISSIONS.** — The board of regents of each state teachers college located in the districts described in subdivisions (1) [through] to (4) of section 174.010 may in its discretion change the name of its college as provided by section 174.020 by eliminating from the name of the institution the words "teachers college" or any of such words and to add the word "university" in lieu of the word "college", and to change the name of the board as provided by section 174.040 by eliminating therefrom the word "teachers" and to add thereto the word "university" in lieu of the word "college"; and thereafter the institutions and boards shall have and enjoy the same rights and privileges as are granted to [teachers] colleges by law, but this section shall not be construed to grant authority to [such institutions to confer postgraduate degrees except those which may be necessary to the training of teachers for the free public schools of the state, or degrees other than those in education and arts and sciences, nor does it] grant additional powers or authorities to those institutions or those boards not enjoyed by other colleges or boards whose names are not changed; provided that nothing in this section shall be construed to limit the missions, degree programs, powers or authorities granted to those institutions or boards under section 173.030 and section 174.450.

**174.310. HARRIS-STOWE STATE UNIVERSITY, TRANSFER OF FACILITY — OPERATION — FUNDING — EDUCATIONAL EMPHASIS.** — 1. There shall be a period of orderly transition which shall begin with the appointment of the board of regents, during which the St. Louis board of education shall convey by gift, the buildings, facilities, equipment, and adjoining eight acres, more or less, of realty located at 3026 Laclede Avenue, St. Louis, Missouri, which currently serves as the campus of Harris-Stowe State College, to the board of regents, and during which time the St. Louis board of education, at its own expense, shall continue to provide necessary supporting services to Harris-Stowe State College. The transition period shall terminate no later than July 1, 1979, at which time the regents shall be responsible for every aspect of the college's operation.

2. Notwithstanding any other provisions of this chapter to the contrary, the board of regents of Harris-Stowe State College is authorized to offer [undergraduate degree programs with an emphasis on selected applied professional disciplines] **baccalaureate degree programs and graduate degree programs** that will meet the needs of the St. Louis metropolitan area. Such programs shall be subject to approval by the coordinating board for higher education as provided for in [subdivision] **subdivisions (1) and (2)** of subsection 2 of section 173.005.

3. The state shall, effective July 1, 1978, provide the necessary funds to fully staff and operate Harris-Stowe State College and to make appropriate capital improvements.

4. On and after August 28, 2005, Harris-Stowe State College shall be known as Harris-Stowe State University, and the provisions contained in subsections 1 to 3 of this section shall continue to apply to the institution.

**174.332. NORTHWEST MISSOURI STATE UNIVERSITY, BOARD OF REGENTS, MEMBERS, TERMS, APPOINTMENT OF, QUORUM REQUIREMENTS.** — 1. Notwithstanding the provisions of section 174.050 to the contrary, the board of regents of Northwest Missouri State University shall be composed of nine members, eight of whom shall be voting members and one who shall

be a nonvoting member. Not more than four voting members shall belong to any one political party. Not more than two voting members shall be residents of the same county. The appointed members of the board serving on August 28, 2008, shall continue to serve until the expiration of the terms for which the appointed members were appointed and until such time a successor is duly appointed.

2. The board of regents shall be appointed as follows:

(1) Six voting members shall be residents of the university's historic statutory service region, [as described in section 174.010 and modified by section 174.250,] provided at least one member shall be a resident of Nodaway County. **For the sole purpose of determining the composition of the board of regents, the university's historic statutory service region shall consist of the counties of Atchison, Andrew, Caldwell, Carroll, Clay, Clinton, Daviess, DeKalb, Gentry, Grundy, Harrison, Holt, Livingston, Mercer, Nodaway, Ray, and Worth;**

(2) Two voting members shall be residents of a county in the state that is outside the university's historic statutory service region, as described in [section 174.010 and modified by section 174.250] **subdivision (1) of this subsection**, provided these two members shall not be appointed from the same congressional district; and

(3) One nonvoting member shall be a full-time student of the university, a United States citizen, and a resident of Missouri.

3. A majority of the voting members of the board shall constitute a quorum for the transaction of business; however, no appropriation of money nor any contract that shall require any appropriation or disbursement of money shall be made, nor teacher employed or dismissed, unless a majority of the voting members of the board vote for the same.

4. Except as specifically provided in this section, the appointments and terms of office for the voting and nonvoting members of the board, and all other duties and responsibilities of the board, shall comply with the provisions of state law regarding boards of regents.

Approved July 14, 2015

SB 336 [HCS SCS SB 336]

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

**Modifies provision relating to income tax withholdings on employee's tips**

AN ACT to repeal section 143.191, RSMo, and to enact in lieu thereof one new section relating to income tax withholding on tips.

SECTION

A. Enacting clause.

143.191. Employer to withhold tax from wages — armed services, withholding from wages or retirement — federal civil service retirement, withholding authorized, when — inapplicable to out-of-state businesses, when.

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

**SECTION A. ENACTING CLAUSE.** — Section 143.191, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.191, to read as follows:

**143.191. EMPLOYER TO WITHHOLD TAX FROM WAGES — ARMED SERVICES, WITHHOLDING FROM WAGES OR RETIREMENT — FEDERAL CIVIL SERVICE RETIREMENT, WITHHOLDING AUTHORIZED, WHEN — INAPPLICABLE TO OUT-OF-STATE BUSINESSES, WHEN.**

— 1. Every employer maintaining an office or transacting any business within this state and making payment of any wages taxable under [sections 143.011 to 143.998] **this chapter** to a resident or nonresident individual shall deduct and withhold from such wages for each payroll period the amount provided in subsection 3 of this section.

2. The term "wages" referred to in subsection 1 of this section means wages as defined by section 3401(a) of the Internal Revenue Code of 1986, as amended. The term "employer" means any person, firm, corporation, association, fiduciary of any kind, or other type of organization for whom an individual performs service as an employee, except that if the person or organization for whom the individual performs service does not have control of the payment of compensation for such service, the term "employer" means the person having control of the payment of the compensation. The term includes the United States, this state, other states, and all agencies, instrumentalities, and subdivisions of any of them.

3. (1) The method of determining the amount to be withheld shall be prescribed by regulations of the director of revenue. The prescribed table, percentages, or other method shall result, so far as practicable, in withholding from the employee's wages during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due from the employee under [sections 143.011 to 143.998] **this chapter** with respect to the amount of such wages included in his Missouri adjusted gross income during the calendar year.

(2) **The amount to be withheld by an employer with respect to tips received by an employee in the course of the employee's employment shall be calculated based solely upon the amount of tips reported by the employee in a written statement furnished to the employer as required by subsection (a) of section 6053 of the Internal Revenue Code of 1986, as amended, or, if greater, the amount of tips received by the employer and remitted to the employee. If an employee shares tips, the employer shall withhold only from the employee who actually received the shared tips. The employer's Missouri income tax withholding obligation with respect to an employee's tip income shall be limited to the portion of the employee's wages under the control of the employer against which the employer is required, pursuant to federal law, to withhold federal income taxes on the employee's tips. Such withholding obligation shall be calculated after making reductions for all required federal tax withholding, Missouri income tax withholding on non-tip income, and other amounts which have higher legal priority.**

4. For purposes of this section an employee shall be entitled to the same number of personal and dependency withholding exemptions as the number of exemptions to which he is entitled for federal income tax withholding purposes. An employer may rely upon the number of federal withholding exemptions claimed by the employee, except where the employee provides the employer with a form claiming a different number of withholding exemptions in this state.

5. The director of revenue may enter into agreements with the tax departments of other states (which require income tax to be withheld from the payment of wages) so as to govern the amounts to be withheld from the wages of residents of such states under this section. Such agreements may provide for recognition of anticipated tax credits in determining the amounts to be withheld and, under regulations prescribed by the director of revenue, may relieve employers in this state from withholding income tax on wages paid to nonresident employees. The agreements authorized by this subsection are subject to the condition that the tax department of such other states grant similar treatment to residents of this state.

6. The director of revenue shall enter into agreements with the Secretary of the Treasury of the United States or with the appropriate secretaries of the respective branches of the Armed Forces of the United States for the withholding, as required by subsections 1 and 2 of this section, of income taxes due the state of Missouri on wages or other payments for service in the armed services of the United States or on payments received as retirement or retainer pay of any member or former member of the Armed Forces entitled to such pay.

7. Subject to appropriations for the purpose of implementing this section, the director of revenue shall comply with provisions of the laws of the United States as amended and the

regulations promulgated thereto in order that all residents of this state receiving monthly retirement income as a civil service annuitant from the federal government taxable by this state may have withheld monthly from any such moneys, whether pension, annuities or otherwise, an amount for payment of state income taxes as required by state law, but such withholding shall not be less than twenty-five dollars per quarter.

8. The provisions of this section shall not apply to out-of-state businesses operating under sections 190.270 to 190.285.

Approved June 22, 2015

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SB 340 [SCS SB 340]

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

**Changes an intersectional reference in a provision of law regarding the determination of heirship**

AN ACT to repeal section 473.663, RSMo, and to enact in lieu thereof one new section relating to the determination of heirship.

SECTION

- A. Enacting clause.  
473.663. No administration within one year after death and no will probated, interested party may petition — contents of petition — notice.

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

**SECTION A. ENACTING CLAUSE.** — Section 473.663, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 473.663, to read as follows:

**473.663. NO ADMINISTRATION WITHIN ONE YEAR AFTER DEATH AND NO WILL PROBATED, INTERESTED PARTY MAY PETITION — CONTENTS OF PETITION — NOTICE.** — 1. If a person has died leaving property or any interest in property in this state and if no administration has been commenced on the estate of such decedent in this state within one year after the date of decedent's death, and if no written will of such decedent has been presented for probate in this state within the time period provided in subsection [2] 3 of section 473.050, then any person claiming an interest in such property as heir or through an heir may file a petition in the probate division of the circuit court which would be of proper venue for the administration of the estate of such decedent to determine the heirs of the decedent at the date of the decedent's death and their respective interests or interests as heirs in the estate. The petition shall include all of the following known by, or can with reasonable diligence be ascertained by, the petitioner:

- (1) The name, age, domicile, last residence address and the fact and date of death of the decedent;
- (2) The names, relationship to the decedent and residence addresses of the heirs of the decedent at the time of the decedent's death;
- (3) The names and residence addresses of any persons claiming through an heir of the decedent when such heir has died after the decedent;
- (4) A particular description of the property of the decedent in this state with respect to which the determination is sought and the value of such property.

2. Upon the filing of the petition, the court shall set the time for the hearing of the petition, notice of which shall be given to:

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(1) All persons known or believed to claim any interest in the property as heir or through an heir of the decedent;

(2) All persons who may at the date of the filing of the petition be shown by the records of conveyances of the county in which any real property described in such petition is located to claim any interest in such real property through the heirs of the decedent; and

(3) Any unknown heirs of the decedent.

3. The notice shall be given by publication by publishing the notice once each week for four consecutive weeks, the last insertion of publication to be at least seven days before the date set for the hearing. In addition, notice under subdivision (1) of subsection 2 of section 472.100, or notice by registered or certified mail, as the court shall direct, shall be given to every person named in the petition whose address is known to the petitioner.

4. Upon the hearing of the petition, the court shall make a decree determining the person or persons entitled to the property with respect to which a determination is sought, and their respective interest in the property as heirs or successors in interest to such heirs. The decree is conclusive evidence of the facts determined in such decree as against all parties to the proceedings.

5. A certified copy of the decree shall be recorded at the expense of the petitioner in each county in which any real property described in the decree is situated.

6. This section shall apply to those persons whose deaths occur on or after July 13, 1989.

Approved July 10, 2015

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SB 341 [HCS SCS SB 341]

**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 for reports of juveniles with problem sexual behavior**

AN ACT to repeal sections 210.003, 210.221, 210.861, 455.010, 455.020, 455.032, 455.040, 455.045, 455.050, 455.080, 455.503, 455.505, 455.513, 455.520, and 455.523, RSMo, section 455.085 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 455.085 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, section 455.538 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 455.538 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, and to enact in lieu thereof twenty-one new sections relating to the protection of vulnerable persons, with penalty provisions.

**SECTION**

- A. Enacting clause.
- 37.719. Independent review, when, procedures — recommendations, findings submitted.
- 160.975. All schools to post child abuse hotline number, signage, contents — rulemaking authority.
- 210.003. Immunizations of children required, when, exceptions — duties of administrator, report — notification of parents, when.
- 210.148. Juveniles with problem sexual behavior reports, procedure — definition — rulemaking authority.
- 210.221. Licenses to be issued by department of health and senior services — duty to fix standards and make investigations — rule variance granted when, procedure.
- 210.223. Safe sleep policy to be maintained, purpose — alternatives, written instructions required — definitions — training — rulemaking authority.
- 210.861. Board of directors, term, expenses, organization — powers — funds, expenditure, purpose, restrictions.
- 455.010. Definitions.
- 455.020. Relief may be sought — order of protection effective, where.
- 455.032. Protection order, restraining respondent from abuse if petitioner is permanently or temporarily in state — evidence admissible of prior abuse in or out of state.
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- 455.040. Hearings, when — duration of orders, renewal, requirements — copies of orders to be given, validity — duties of law enforcement agency — information entered in MULES.
- 455.045. Temporary relief available.
- 455.050. Full or ex parte order of protection, abuse, stalking, or sexual assault, contents — relief available.
- 455.080. Law enforcement agencies response to alleged incidents of domestic violence, stalking, or sexual assault — factors indicating need for immediate response — establishment of crisis team — transportation of abused party to medical treatment or shelter.
- 455.085. Beginning January 1, 2017 — Arrest for violation of order — penalties — good faith immunity for law enforcement officials.
- 455.085. Until December 31, 2016 — Arrest for violation of order — penalties — good faith immunity for law enforcement officials.
- 455.503. Venue — petition, who may file.
- 455.505. Relief may be sought for child for domestic violence, stalking, or sexual assault — order of protection effective, where.
- 455.513. Ex parte orders, issued when, effective when — for good cause shown, defined — investigation by children's division, when — report due when, available to whom — transfer to juvenile court, when.
- 455.520. Temporary relief available — ex parte orders.
- 455.523. Full order of protection — relief available.
- 455.538. Beginning January 1, 2017 — Law enforcement agencies response to violation of order — arrest for violation, penalties — custody to be returned to rightful party, when.
- 455.538. Until December 31, 2016 — Law enforcement agencies response to violation of order — arrest for violation, penalties — custody to be returned to rightful party, when.

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

**SECTION A. ENACTING CLAUSE.** — Sections 210.003, 210.221, 210.861, 455.010, 455.020, 455.032, 455.040, 455.045, 455.050, 455.080, 455.503, 455.505, 455.513, 455.520, and 455.523, RSMo, section 455.085 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 455.085 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, section 455.538 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 455.538 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 37.719, 160.975, 210.003, 210.148, 210.221, 210.223, 210.861, 455.010, 455.020, 455.032, 455.040, 455.045, 455.050, 455.080, 455.085, 455.503, 455.505, 455.513, 455.520, 455.523, and 455.538, to read as follows:

**37.719. INDEPENDENT REVIEW, WHEN, PROCEDURES — RECOMMENDATIONS, FINDINGS SUBMITTED.** — **1. The office shall have the authority to and may conduct an independent review of any entity within a county that has experienced three or more review requests in a calendar year including, but not limited to, children's division, the juvenile office, or guardian ad litem. The office shall establish and implement procedures for reviewing any such entity.**

**2. The office shall have the authority to make the necessary inquiries and review relevant information and records as the office deems necessary in order to conduct such reviews.**

**3. The office may make recommendations on changes to any entity's policies and procedures based on the results of the review in order to improve the delivery of services or the function of the entity. Upon completing a review under the provisions of this section, the office shall submit any findings and recommendations to the children's division and the office of state courts administrator.**

**160.975. ALL SCHOOLS TO POST CHILD ABUSE HOTLINE NUMBER, SIGNAGE, CONTENTS — RULEMAKING AUTHORITY.** — **1. Each public school and charter school shall post in a clearly visible location in a public area of the school that is readily accessible to students a sign in English and in Spanish that contains the toll-free child abuse and neglect hotline number established by the children's division under section 210.145. Additionally, each**

school shall post signs containing the same information in all student restrooms in the school, to allow for private access to the information by students of either gender.

2. The information contained on the signs required under subsection 1 of this section shall be presented on a poster at least 11 inches by 17 inches in size, contain large print, and be placed at eye level to the student for easy viewing. The hotline number shall be displayed in bold print. The signs shall contain instructions to call 911 for emergencies and directions for accessing the children's division website for more information on reporting abuse, neglect, and exploitation.

3. The children's division shall create an acronym to help children to remember the toll-free child abuse and neglect hotline number.

4. The children's division may promulgate all necessary rules and regulations for the administration 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, 2015, shall be invalid and void.

**210.003. IMMUNIZATIONS OF CHILDREN REQUIRED, WHEN, EXCEPTIONS — DUTIES OF ADMINISTRATOR, REPORT — NOTIFICATION OF PARENTS, WHEN.** — 1. No child shall be permitted to enroll in or attend any public, private or parochial day care center, preschool or nursery school caring for ten or more children unless such child has been adequately immunized against vaccine-preventable childhood illnesses specified by the department of health and senior services in accordance with recommendations of the [Immunization Practices Advisory Committee] **Centers for Disease Control and Prevention Advisory Committee on Immunization Practices (ACIP)**. The parent or guardian of such child shall provide satisfactory evidence of the required immunizations.

2. A child who has not completed all immunizations appropriate for his age may enroll, if:

(1) Satisfactory evidence is produced that such child has begun the process of immunization. The child may continue to attend as long as the immunization process is being accomplished according to the ACIP/Missouri department of health and senior services recommended schedule; or

(2) The parent or guardian has signed and placed on file with the day care administrator a statement of exemption which may be either of the following:

(a) A medical exemption, by which a child shall be exempted from the requirements of this section upon certification by a licensed physician that such immunization would seriously endanger the child's health or life; or

(b) A parent or guardian exemption, by which a child shall be exempted from the requirements of this section if one parent or guardian files a written objection to immunization with the day care administrator. Exemptions shall be accepted by the day care administrator when the necessary information as determined by the department of health and senior services is filed with the day care administrator by the parent or guardian. Exemption forms shall be provided by the department of health and senior services.

3. In the event of an outbreak or suspected outbreak of a vaccine-preventable disease within a particular facility, the administrator of the facility shall follow the control measures instituted by the local health authority or the department of health and senior services or both the local health authority and the department of health and senior services, as established in Rule 19 CSR 20-20.040, "Measures for the Control of Communicable Diseases".

4. The administrator of each public, private or parochial day care center, preschool or nursery school shall cause to be prepared a record of immunization of every child enrolled in or

attending a facility under his jurisdiction. An annual summary report shall be made by January fifteenth showing the immunization status of each child enrolled, using forms provided for this purpose by the department of health and senior services. The immunization records shall be available for review by department of health and senior services personnel upon request.

5. For purposes of this section, satisfactory evidence of immunization means a statement, certificate or record from a physician or other recognized health facility or personnel, stating that the required immunizations have been given to the child and verifying the type of vaccine and the month, day and year of administration.

6. Nothing in this section shall preclude any political subdivision from adopting more stringent rules regarding the immunization of preschool children.

7. **All public, private, and parochial day care centers, preschools, and nursery schools shall notify the parent or guardian of each child at the time of initial enrollment in or attendance at the facility that the parent or guardian may request notice of whether there are children currently enrolled in or attending the facility for whom an immunization exemption has been filed. Beginning December 1, 2015, all public, private, and parochial day care centers, preschools, and nursery schools shall notify the parent or guardian of each child currently enrolled in or attending the facility that the parent or guardian may request notice of whether there are children currently enrolled in or attending the facility for whom an immunization exemption has been filed. Any public, private, or parochial day care center, preschool, or nursery school shall notify the parent or guardian of a child enrolled in or attending the facility, upon request, of whether there are children currently enrolled in or attending the facility for whom an immunization exemption has been filed.**

**210.148. JUVENILES WITH PROBLEM SEXUAL BEHAVIOR REPORTS, PROCEDURE — DEFINITION — RULEMAKING AUTHORITY. — 1. Notwithstanding any provision of section 210.145 to the contrary, upon the receipt of a report under section 210.145 where the subject of the report is a juvenile with problem sexual behavior, the division shall immediately communicate such report to the appropriate local office along with any relevant information as may be contained in the information system. Upon receipt of the report and relevant information, the local office shall use a family assessment and services approach, as described in subsection 14 of section 210.145 to respond to the allegation contained in the report. For the purposes of family assessments performed under this section, the alleged abuse does not have to be committed by a person responsible for the care, custody, and control of the child.**

**2. Nothing in this section shall prohibit the local office from commencing an investigation if the local office, at any point in using the family assessment and services approach, determines that an investigation is required. Such investigation shall comply with the provisions of section 210.145 and may include requesting assistance from the appropriate law enforcement agency.**

**3. As used in this section, the term "juvenile with problem sexual behavior" shall mean any person, under fourteen years of age, who has allegedly committed sexual abuse against another child.**

**4. Within one hundred eighty days after August 28, 2015, the division shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.**

**210.221. LICENSES TO BE ISSUED BY DEPARTMENT OF HEALTH AND SENIOR SERVICES — DUTY TO FIX STANDARDS AND MAKE INVESTIGATIONS — RULE VARIANCE GRANTED WHEN, PROCEDURE.** — 1. The department of health and senior services shall have the following powers and duties:

(1) After inspection, to grant licenses to persons to operate child-care facilities if satisfied as to the good character and intent of the applicant and that such applicant is qualified and equipped to render care or service conducive to the welfare of children, and to renew the same when expired. No license shall be granted for a term exceeding two years. Each license shall specify the kind of child-care services the licensee is authorized to perform, the number of children that can be received or maintained, and their ages and sex;

(2) To inspect the conditions of the homes and other places in which the applicant operates a child-care facility, inspect their books and records, premises and children being served, examine their officers and agents, deny, suspend, place on probation or revoke the license of such persons as fail to obey the provisions of sections 210.201 to 210.245 or the rules and regulations made by the department of health and senior services. The director also may revoke or suspend a license when the licensee fails to renew or surrenders the license;

(3) To promulgate and issue rules and regulations the department deems necessary or proper in order to establish standards of service and care to be rendered by such licensees to children. No rule or regulation promulgated by the division shall in any manner restrict or interfere with any religious instruction, philosophies or ministries provided by the facility and shall not apply to facilities operated by religious organizations which are not required to be licensed; [and]

(4) **To approve training concerning the safe sleep recommendations of the American Academy of Pediatrics in accordance with section 210.223; and**

(5) To determine what records shall be kept by such persons and the form thereof, and the methods to be used in keeping such records, and to require reports to be made to the department at regular intervals.

2. Any child-care facility may request a variance from a rule or regulation promulgated pursuant to this section. The request for a variance shall be made in writing to the department of health and senior services and shall include the reasons the facility is requesting the variance. The department shall approve any variance request that does not endanger the health or safety of the children served by the facility. The burden of proof at any appeal of a disapproval of a variance application shall be with the department of health and senior services. Local inspectors may grant a variance, subject to approval by the department of health and senior services.

3. The department shall deny, suspend, place on probation or revoke a license if it receives official written notice that the local governing body has found that license is prohibited by any local law related to the health and safety of children. The department may, after inspection, find the licensure, denial of licensure, suspension or revocation to be in the best interest of the state.

4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 210.201 to 210.245 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

**210.223. SAFE SLEEP POLICY TO BE MAINTAINED, PURPOSE — ALTERNATIVES, WRITTEN INSTRUCTIONS REQUIRED — DEFINITIONS — TRAINING — RULEMAKING AUTHORITY.** — 1. **All licensed child care facilities that provide care for children less than**

one year of age shall implement and maintain a written safe sleep policy in accordance with the most recent safe sleep recommendations of the American Academy of Pediatrics. The purpose of the safe sleep policy is to maintain a safe sleep environment that reduces the risk of sudden infant death syndrome and sudden unexpected infant deaths in children less than one year of age.

2. When, in the opinion of the infant's licensed health care provider, an infant requires alternative sleep positions or special sleeping arrangements that differ from those set forth in the most recent sleep recommendations of the American Academy of Pediatrics, the child care facility shall be provided with written instructions, signed by the infant's licensed health care provider, detailing the alternative sleep positions or special sleeping arrangements for such infant. The child care facility shall put the infant to sleep in accordance with such written instructions.

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

(1) "Sudden infant death syndrome", the sudden death of an infant less than one year of age that cannot be explained after a thorough investigation has been conducted, including a complete autopsy, an examination of the death scene, and a review of the clinical history;

(2) "Sudden unexpected infant death", the sudden and unexpected death of an infant less than one year of age in which the manner and cause of death are not immediately obvious prior to investigation. Causes of sudden unexpected infant death include, but are not limited to, metabolic disorders, hypothermia or hyperthermia, neglect or homicide, poisoning, and accidental suffocation.

4. All employees of licensed child care facilities who care for infants less than one year of age or any volunteer who may be assisting at the facility shall successfully complete department-approved training on the most recent safe sleep recommendations of the American Academy of Pediatrics every three years.

5. The department shall promulgate rules to implement the provisions of this section. Such rules shall include, but not be limited to:

(1) Amending any current rules which are not in compliance with the most recent safe sleep recommendations of the American Academy of Pediatrics, including but not limited to 19 CSR 30.62-092(1)C which permits the use of bumper pads in cribs or playpens;

(2) Keeping soft or loose bedding away from sleeping infants and out of safe sleep environments including, but not limited to, bumper pads, pillows, quilts, comforters, sleep positioning devices, sheepskins, blankets, flat sheets, cloth diapers, bibs, and other similar items; and

(3) Prohibiting blankets or other soft or loose bedding from being hung on the sides of cribs.

6. The department may adopt emergency rules to implement the requirements 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 the effective date of this section shall be invalid and void.

**210.861. BOARD OF DIRECTORS, TERM, EXPENSES, ORGANIZATION — POWERS — FUNDS, EXPENDITURE, PURPOSE, RESTRICTIONS. —** 1. When the tax prescribed by section 210.860 or section 67.1775 is established, the governing body of the city or county or city not within a county shall appoint a board of directors consisting of nine members, who shall be

residents of the city or county or city not within a county. All board members shall be appointed to serve for a term of three years, except that of the first board appointed, three members shall be appointed for one-year terms, three members for two-year terms and three members for three-year terms. Board members may be reappointed. In a city not within a county, or any county of the first classification with a charter form of government with a population not less than nine hundred thousand inhabitants, or any county of the first classification with a charter form of government with a population not less than two hundred thousand inhabitants and not more than six hundred thousand inhabitants, or any noncharter county of the first classification with a population not less than one hundred seventy thousand and not more than two hundred thousand inhabitants, or any noncharter county of the first classification with a population not less than eighty thousand and not more than eighty-three thousand inhabitants, or any third classification county with a population not less than twenty-eight thousand and not more than thirty thousand inhabitants, or any county of the third classification with a population not less than nineteen thousand five hundred and not more than twenty thousand inhabitants the members of the community mental health board of trustees appointed pursuant to the provisions of sections 205.975 to 205.990 shall be the board members for the community children's services fund. The directors shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses.

2. The board shall elect a chairman, vice chairman, treasurer, and such other officers as it deems necessary for its membership. Before taking office, the treasurer shall furnish a surety bond **or comparable insurance coverage for theft, misappropriation, mismanagement, or other acts**, in an amount to be determined and in a form to be approved by the board, for the faithful performance of his or her duties and faithful accounting of all moneys that may come into his or her hands. The treasurer shall enter into the surety bond **or comparable insurance coverage** with a surety company **or insurer** authorized to do business in Missouri, and the cost of such bond **or comparable insurance coverage** shall be paid by the board of directors. The board shall administer and expend all funds generated pursuant to section 210.860 or section 67.1775 in a manner consistent with this section. **The board shall not be mandated to expend funds by an act of state legislation without a majority vote of the county or city not within a county, excluding any county with a charter form of government and with more than nine hundred fifty thousand inhabitants.**

3. The board may contract with public or not-for-profit agencies licensed or certified where appropriate to provide qualified services and may place conditions on the use of such funds. The board shall reserve the right to audit the expenditure of any and all funds. The board and any agency with which the board contracts may establish eligibility standards for the use of such funds and the receipt of services. No member of the board shall serve on the governing body, have any financial interest in, or be employed by any agency which is a recipient of funds generated pursuant to section 210.860 or section 67.1775.

4. Revenues collected and deposited in the community children's services fund may be expended for the purchase of the following services:

(1) Up to thirty days of temporary shelter for abused, neglected, runaway, homeless or emotionally disturbed youth; respite care services; and services to unwed mothers;

(2) Outpatient chemical dependency and psychiatric treatment programs; counseling and related services as a part of transitional living programs; home-based and community-based family intervention programs; unmarried parent services; crisis intervention services, inclusive of telephone hotlines; and prevention programs which promote healthy lifestyles among children and youth and strengthen families;

(3) Individual, group, or family professional counseling and therapy services; psychological evaluations; and mental health screenings.

5. **Any county, excluding any county with a charter form of government and with more than nine hundred fifty thousand inhabitants, or city not within a county in which voters have approved the levy of a tax under section 67.1775 or section 210.860 shall not**

**add services in addition to those which are set forth in subsection 4 of this section at the time such levy is approved by the voters, unless such services authorized by statute after the voters have approved the levy are approved by the voters in the same manner as the original levy was approved. A proposal to add services shall be approved as set forth in section 67.1775 or section 210.860.**

6. Revenues collected and deposited in the community children's services fund may not be expended for inpatient medical, psychiatric, and chemical dependency services, or for transportation services.

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

(1) "Abuse" includes but is not limited to the occurrence of any of the following acts, attempts or threats against a person who may be protected pursuant to this chapter, except abuse shall not include abuse inflicted on a child by accidental means by an adult household member or discipline of a child, including spanking, in a reasonable manner:

(a) "Assault", purposely or knowingly placing or attempting to place another in fear of physical harm;

(b) "Battery", purposely or knowingly causing physical harm to another with or without a deadly weapon;

(c) "Coercion", compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage;

(d) "Harassment", engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to an adult or child and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable adult or child to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner or child. Such conduct might include, but is not limited to:

a. Following another about in a public place or places;

b. Peering in the window or lingering outside the residence of another; but does not include constitutionally protected activity;

(e) "Sexual assault", causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, [or] duress, **or without that person's consent**;

(f) "Unlawful imprisonment", holding, confining, detaining or abducting another person against that person's will;

(2) "Adult", any person seventeen years of age or older or otherwise emancipated;

(3) "Child", any person under seventeen years of age unless otherwise emancipated;

(4) "Court", the circuit or associate circuit judge or a family court commissioner;

(5) "Domestic violence", abuse or stalking committed by a family or household member, as such terms are defined in this section;

(6) "Ex parte order of protection", an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it;

(7) "Family" or "household member", spouses, former spouses, any person related by blood or marriage, persons who are presently residing together or have resided together in the past, any person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and anyone who has a child in common regardless of whether they have been married or have resided together at any time;

(8) "Full order of protection", an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard;

(9) "Order of protection", either an ex parte order of protection or a full order of protection;

(10) "Pending", exists or for which a hearing date has been set;

(11) "Petitioner", a family or household member who has been a victim of domestic violence, or any person who has been the victim of stalking **or sexual assault**, or a person filing on behalf of a child pursuant to section 455.503 who has filed a verified petition pursuant to the provisions of section 455.020 or section 455.505;

(12) "Respondent", the family or household member alleged to have committed an act of domestic violence, or person alleged to have committed an act of stalking **or sexual assault**, against whom a verified petition has been filed or a person served on behalf of a child pursuant to section 455.503;

(13) "**Sexual assault**", as defined under subdivision (1) of this section;

(14) "Stalking" is when any person purposely [ and repeatedly] engages in an unwanted course of conduct that causes alarm to another person, **or a person who resides together in the same household with the person seeking the order of protection** when it is reasonable in that person's situation to have been alarmed by the conduct. As used in this subdivision:

(a) "Alarm" means to cause fear of danger of physical harm; **and**

(b) "Course of conduct" means a pattern of conduct composed of [repeated] **two or more** acts over a period of time, however short, that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or unwanted contact]; and

(c) "Repeated" means two or more incidents evidencing a continuity of purpose].

**455.020. RELIEF MAY BE SOUGHT — ORDER OF PROTECTION EFFECTIVE, WHERE. —**

1. Any person who has been subject to domestic violence by a present or former family or household member, or who has been the victim of stalking **or sexual assault**, may seek relief under sections 455.010 to 455.085 by filing a verified petition alleging such domestic violence [or], stalking, **or sexual assault** by the respondent.

2. A person's right to relief under sections 455.010 to 455.085 shall not be affected by the person leaving the residence or household to avoid domestic violence.

3. Any protection order issued pursuant to sections 455.010 to 455.085 shall be effective throughout the state in all cities and counties.

**455.032. PROTECTION ORDER, RESTRAINING RESPONDENT FROM ABUSE IF PETITIONER IS PERMANENTLY OR TEMPORARILY IN STATE — EVIDENCE ADMISSIBLE OF PRIOR ABUSE IN OR OUT OF STATE. —** In addition to any other jurisdictional grounds provided by law, a court shall have jurisdiction to enter an order of protection restraining or enjoining the respondent from committing or threatening to commit domestic violence, stalking, **sexual assault**, molesting or disturbing the peace of petitioner, pursuant to sections 455.010 to 455.085, if the petitioner is present, whether permanently or on a temporary basis within the state of Missouri and if the respondent's actions constituting domestic violence have occurred, have been attempted or have been or are threatened within the state of Missouri. For purposes of this section, if the petitioner has been the subject of domestic violence within or outside of the state of Missouri, such evidence shall be admissible to demonstrate the need for protection in Missouri.

**455.040. HEARINGS, WHEN — DURATION OF ORDERS, RENEWAL, REQUIREMENTS — COPIES OF ORDERS TO BE GIVEN, VALIDITY — DUTIES OF LAW ENFORCEMENT AGENCY — INFORMATION ENTERED IN MULES. —** 1. Not later than fifteen days after the filing of a petition that meets the requirements of section 455.020, a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted. At the hearing, if the petitioner has proved the allegation of domestic violence [or], stalking, **or sexual assault** by a preponderance of the evidence, and the respondent cannot show that his or her actions alleged to constitute abuse were otherwise justified under the law, the court shall issue a full order of protection for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. Upon motion by the

petitioner, and after a hearing by the court, the full order of protection may be renewed for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year from the expiration date of the originally issued full order of protection. The court may, upon finding that it is in the best interest of the parties, include a provision that any full order of protection for one year shall automatically renew unless the respondent requests a hearing by thirty days prior to the expiration of the order. If for good cause a hearing cannot be held on the motion to renew or the objection to an automatic renewal of the full order of protection prior to the expiration date of the originally issued full order of protection, an ex parte order of protection may be issued until a hearing is held on the motion. When an automatic renewal is not authorized, upon motion by the petitioner, and after a hearing by the court, the second full order of protection may be renewed for an additional period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. For purposes of this subsection, a finding by the court of a subsequent act of domestic violence [or], stalking, **or sexual assault** is not required for a renewal order of protection.

2. The court shall cause a copy of the petition and notice of the date set for the hearing on such petition and any ex parte order of protection to be served upon the respondent as provided by law or by any sheriff or police officer at least three days prior to such hearing. The court shall cause a copy of any full order of protection to be served upon or mailed by certified mail to the respondent at the respondent's last known address. Notice of an ex parte or full order of protection shall be served at the earliest time, and service of such notice shall take priority over service in other actions, except those of a similar emergency nature. Failure to serve or mail a copy of the full order of protection to the respondent shall not affect the validity or enforceability of a full order of protection.

3. A copy of any order of protection granted pursuant to sections 455.010 to 455.085 shall be issued to the petitioner and to the local law enforcement agency in the jurisdiction where the petitioner resides. The clerk shall also issue a copy of any order of protection to the local law enforcement agency responsible for maintaining the Missouri uniform law enforcement system or any other comparable law enforcement system the same day the order is granted. The law enforcement agency responsible for maintaining MULES shall, for purposes of verification, within twenty-four hours from the time the order is granted, enter information contained in the order including but not limited to any orders regarding child custody or visitation and all specifics as to times and dates of custody or visitation that are provided in the order. A notice of expiration or of termination of any order of protection or any change in child custody or visitation within that order shall be issued to the local law enforcement agency and to the law enforcement agency responsible for maintaining MULES or any other comparable law enforcement system. The law enforcement agency responsible for maintaining the applicable law enforcement system shall enter such information in the system within twenty-four hours of receipt of information evidencing such expiration or termination. The information contained in an order of protection may be entered in the Missouri uniform law enforcement system or comparable law enforcement system using a direct automated data transfer from the court automated system to the law enforcement system.

4. The court shall cause a copy of any objection filed by the respondent and notice of the date set for the hearing on such objection to an automatic renewal of a full order of protection for a period of one year to be personally served upon the petitioner by personal process server as provided by law or by a sheriff or police officer at least three days prior to such hearing. Such service of process shall be served at the earliest time and shall take priority over service in other actions except those of a similar emergency nature.

**455.045. TEMPORARY RELIEF AVAILABLE.** — Any ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from domestic violence [or], stalking, **or sexual assault** and may include:

- (1) Restraining the respondent from committing or threatening to commit domestic violence, molesting, stalking, **sexual assault**, or disturbing the peace of the petitioner;
- (2) Restraining the respondent from entering the premises of the dwelling unit of petitioner when the dwelling unit is:
  - (a) Jointly owned, leased or rented or jointly occupied by both parties; or
  - (b) Owned, leased, rented or occupied by petitioner individually; or
  - (c) Jointly owned, leased or rented by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a property interest in the dwelling unit; or
  - (d) Jointly occupied by the petitioner and a person other than the respondent; provided that the respondent has no property interest in the dwelling unit;
- (3) Restraining the respondent from communicating with the petitioner in any manner or through any medium;
- (4) A temporary order of custody of minor children where appropriate.

**455.050. FULL OR EX PARTE ORDER OF PROTECTION, ABUSE, STALKING, OR SEXUAL ASSAULT, CONTENTS — RELIEF AVAILABLE.** — 1. Any full or ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from domestic violence, **stalking**, or **sexual assault** and may include such terms as the court reasonably deems necessary to ensure the petitioner's safety, including but not limited to:

- (1) Temporarily enjoining the respondent from committing or threatening to commit domestic violence, molesting, stalking, **sexual assault**, or disturbing the peace of the petitioner;
  - (2) Temporarily enjoining the respondent from entering the premises of the dwelling unit of the petitioner when the dwelling unit is:
    - (a) Jointly owned, leased or rented or jointly occupied by both parties; or
    - (b) Owned, leased, rented or occupied by petitioner individually; or
    - (c) Jointly owned, leased, rented or occupied by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a property interest in the dwelling unit; or
    - (d) Jointly occupied by the petitioner and a person other than respondent; provided that the respondent has no property interest in the dwelling unit; or
  - (3) Temporarily enjoining the respondent from communicating with the petitioner in any manner or through any medium.
2. Mutual orders of protection are prohibited unless both parties have properly filed written petitions and proper service has been made in accordance with sections 455.010 to 455.085.
3. When the court has, after a hearing for any full order of protection, issued an order of protection, it may, in addition:
- (1) Award custody of any minor child born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best interests of the child require such order be issued;
  - (2) Establish a visitation schedule that is in the best interests of the child;
  - (3) Award child support in accordance with supreme court rule 88.01 and chapter 452;
  - (4) Award maintenance to petitioner when petitioner and respondent are lawfully married in accordance with chapter 452;
  - (5) Order respondent to make or to continue to make rent or mortgage payments on a residence occupied by the petitioner if the respondent is found to have a duty to support the petitioner or other dependent household members;
  - (6) Order the respondent to pay the petitioner's rent at a residence other than the one previously shared by the parties if the respondent is found to have a duty to support the petitioner and the petitioner requests alternative housing;
  - (7) Order that the petitioner be given temporary possession of specified personal property, such as automobiles, checkbooks, keys, and other personal effects;

(8) Prohibit the respondent from transferring, encumbering, or otherwise disposing of specified property mutually owned or leased by the parties;

(9) Order the respondent to participate in a court-approved counseling program designed to help batterers stop violent behavior or to participate in a substance abuse treatment program;

(10) Order the respondent to pay a reasonable fee for housing and other services that have been provided or that are being provided to the petitioner by a shelter for victims of domestic violence;

(11) Order the respondent to pay court costs;

(12) Order the respondent to pay the cost of medical treatment and services that have been provided or that are being provided to the petitioner as a result of injuries sustained to the petitioner by an act of domestic violence committed by the respondent.

4. A verified petition seeking orders for maintenance, support, custody, visitation, payment of rent, payment of monetary compensation, possession of personal property, prohibiting the transfer, encumbrance, or disposal of property, or payment for services of a shelter for victims of domestic violence, shall contain allegations relating to those orders and shall pray for the orders desired.

5. In making an award of custody, the court shall consider all relevant factors including the presumption that the best interests of the child will be served by placing the child in the custody and care of the nonabusive parent, unless there is evidence that both parents have engaged in abusive behavior, in which case the court shall not consider this presumption but may appoint a guardian ad litem or a court-appointed special advocate to represent the children in accordance with chapter 452 and shall consider all other factors in accordance with chapter 452.

6. The court shall grant to the noncustodial parent rights to visitation with any minor child born to or adopted by the parties, unless the court finds, after hearing, that visitation would endanger the child's physical health, impair the child's emotional development or would otherwise conflict with the best interests of the child, or that no visitation can be arranged which would sufficiently protect the custodial parent from further domestic violence. The court may appoint a guardian ad litem or court-appointed special advocate to represent the minor child in accordance with chapter 452 whenever the custodial parent alleges that visitation with the noncustodial parent will damage the minor child.

7. The court shall make an order requiring the noncustodial party to pay an amount reasonable and necessary for the support of any child to whom the party owes a duty of support when no prior order of support is outstanding and after all relevant factors have been considered, in accordance with Missouri supreme court rule 88.01 and chapter 452.

8. The court may grant a maintenance order to a party for a period of time, not to exceed one hundred eighty days. Any maintenance ordered by the court shall be in accordance with chapter 452.

**455.080. LAW ENFORCEMENT AGENCIES RESPONSE TO ALLEGED INCIDENTS OF DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT — FACTORS INDICATING NEED FOR IMMEDIATE RESPONSE — ESTABLISHMENT OF CRISIS TEAM — TRANSPORTATION OF ABUSED PARTY TO MEDICAL TREATMENT OR SHELTER.** — 1. Law enforcement agencies may establish procedures to ensure that dispatchers and officers at the scene of an alleged incident of domestic violence [or], stalking, **sexual assault**, or violation of an order of protection can be informed of any recorded prior incident of domestic violence [or], stalking, **or sexual assault** involving the abused party and can verify the effective dates and terms of any recorded order of protection.

2. The law enforcement agency shall apply the same standard for response to an alleged incident of domestic violence [or], stalking, **sexual assault**, or a violation of any order of protection as applied to any like offense involving strangers, except as otherwise provided by law. Law enforcement agencies shall not assign lower priority to calls involving alleged incidents of domestic violence [or], stalking, **sexual assault**, or violation of protection orders than

is assigned in responding to offenses involving strangers. Existence of any of the following factors shall be interpreted as indicating a need for immediate response:

- (1) The caller indicates that violence is imminent or in progress; or
- (2) A protection order is in effect; or
- (3) The caller indicates that incidents of domestic violence have occurred previously between the parties.

3. Law enforcement agencies may establish domestic crisis teams or, if the agency has fewer than five officers whose responsibility it is to respond to calls of this nature, individual officers trained in methods of dealing with domestic violence. Such teams or individuals may be supplemented by social workers, ministers or other persons trained in counseling or crisis intervention. When an alleged incident of domestic violence is reported, the agency may dispatch a crisis team or specially trained officer, if available, to the scene of the incident.

4. The officer at the scene of an alleged incident of domestic violence [or], stalking, or sexual assault shall inform the abused party of available judicial remedies for relief from domestic violence and of available shelters for victims of domestic violence.

5. Law enforcement officials at the scene shall provide or arrange transportation for the abused party to a medical facility for treatment of injuries or to a place of shelter or safety.

**455.085. BEGINNING JANUARY 1, 2017 — ARREST FOR VIOLATION OF ORDER — PENALTIES — GOOD FAITH IMMUNITY FOR LAW ENFORCEMENT OFFICIALS.** — 1. When a law enforcement officer has probable cause to believe a party has committed a violation of law amounting to domestic violence, as defined in section 455.010, against a family or household member, the officer may arrest the offending party whether or not the violation occurred in the presence of the arresting officer. When the officer declines to make arrest pursuant to this subsection, the officer shall make a written report of the incident completely describing the offending party, giving the victim's name, time, address, reason why no arrest was made and any other pertinent information. Any law enforcement officer subsequently called to the same address within a twelve-hour period, who shall find probable cause to believe the same offender has again committed a violation as stated in this subsection against the same or any other family or household member, shall arrest the offending party for this subsequent offense. The primary report of nonarrest in the preceding twelve-hour period may be considered as evidence of the defendant's intent in the violation for which arrest occurred. The refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

2. When a law enforcement officer has probable cause to believe that a party, against whom a protective order has been entered and who has notice of such order entered, has committed an act of abuse in violation of such order, the officer shall arrest the offending party-respondent whether or not the violation occurred in the presence of the arresting officer. Refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

3. When an officer makes an arrest, the officer is not required to arrest two parties involved in an assault when both parties claim to have been assaulted. The arresting officer shall attempt to identify and shall arrest the party the officer believes is the primary physical aggressor. The term "primary physical aggressor" is defined as the most significant, rather than the first, aggressor. The law enforcement officer shall consider any or all of the following in determining the primary physical aggressor:

- (1) The intent of the law to protect victims from continuing domestic violence;
- (2) The comparative extent of injuries inflicted or serious threats creating fear of physical injury;
- (3) The history of domestic violence between the persons involved.

No law enforcement officer investigating an incident of domestic violence shall threaten the arrest of all parties for the purpose of discouraging requests or law enforcement intervention by

any party. Where complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately to determine whether the officer should seek a warrant for an arrest.

4. In an arrest in which a law enforcement officer acted in good faith reliance on this section, the arresting and assisting law enforcement officers and their employing entities and superiors shall be immune from liability in any civil action alleging false arrest, false imprisonment or malicious prosecution.

5. When a person against whom an order of protection has been entered fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

6. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

7. A violation of the terms and conditions, with regard to domestic violence, stalking, **sexual assault**, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of an ex parte order of protection of which the respondent has notice, shall be a class A misdemeanor unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class E felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

8. A violation of the terms and conditions, with regard to domestic violence, stalking, **sexual assault**, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of a full order of protection shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class E felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of the sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict. For the purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection if the law enforcement officer responding to a call of a reported incident of domestic violence, stalking, **sexual assault**, or violation of an order of protection presented a copy of the order of protection to the respondent.

9. Good faith attempts to effect a reconciliation of a marriage shall not be deemed tampering with a witness or victim tampering under section 575.270.

10. Nothing in this section shall be interpreted as creating a private cause of action for damages to enforce the provisions set forth herein.

**455.085. UNTIL DECEMBER 31, 2016 — ARREST FOR VIOLATION OF ORDER — PENALTIES — GOOD FAITH IMMUNITY FOR LAW ENFORCEMENT OFFICIALS. — 1.** When a law enforcement officer has probable cause to believe a party has committed a violation of law

amounting to domestic violence, as defined in section 455.010, against a family or household member, the officer may arrest the offending party whether or not the violation occurred in the presence of the arresting officer. When the officer declines to make arrest pursuant to this subsection, the officer shall make a written report of the incident completely describing the offending party, giving the victim's name, time, address, reason why no arrest was made and any other pertinent information. Any law enforcement officer subsequently called to the same address within a twelve-hour period, who shall find probable cause to believe the same offender has again committed a violation as stated in this subsection against the same or any other family or household member, shall arrest the offending party for this subsequent offense. The primary report of nonarrest in the preceding twelve-hour period may be considered as evidence of the defendant's intent in the violation for which arrest occurred. The refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

2. When a law enforcement officer has probable cause to believe that a party, against whom a protective order has been entered and who has notice of such order entered, has committed an act of abuse in violation of such order, the officer shall arrest the offending party-respondent whether or not the violation occurred in the presence of the arresting officer. Refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

3. When an officer makes an arrest, the officer is not required to arrest two parties involved in an assault when both parties claim to have been assaulted. The arresting officer shall attempt to identify and shall arrest the party the officer believes is the primary physical aggressor. The term "primary physical aggressor" is defined as the most significant, rather than the first, aggressor. The law enforcement officer shall consider any or all of the following in determining the primary physical aggressor:

- (1) The intent of the law to protect victims from continuing domestic violence;
- (2) The comparative extent of injuries inflicted or serious threats creating fear of physical injury;
- (3) The history of domestic violence between the persons involved.

No law enforcement officer investigating an incident of domestic violence shall threaten the arrest of all parties for the purpose of discouraging requests or law enforcement intervention by any party. Where complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately to determine whether the officer should seek a warrant for an arrest.

4. In an arrest in which a law enforcement officer acted in good faith reliance on this section, the arresting and assisting law enforcement officers and their employing entities and superiors shall be immune from liability in any civil action alleging false arrest, false imprisonment or malicious prosecution.

5. When a person against whom an order of protection has been entered fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

6. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

7. A violation of the terms and conditions, with regard to domestic violence, stalking, **sexual assault**, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of an ex parte order of protection of which the respondent has notice, shall be a class A misdemeanor unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony.

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Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

8. A violation of the terms and conditions, with regard to domestic violence, stalking, **sexual assault**, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of a full order of protection shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of the sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict. For the purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection if the law enforcement officer responding to a call of a reported incident of domestic violence, stalking, **sexual assault**, or violation of an order of protection presented a copy of the order of protection to the respondent.

9. Good faith attempts to effect a reconciliation of a marriage shall not be deemed tampering with a witness or victim tampering under section 575.270.

10. Nothing in this section shall be interpreted as creating a private cause of action for damages to enforce the provisions set forth herein.

**455.503. VENUE — PETITION, WHO MAY FILE.** — 1. A petition for an order of protection for a child shall be filed in the county where the child resides, where the alleged incident of domestic violence [or], stalking, **or sexual assault** occurred, or where the respondent may be served.

2. Such petition may be filed by any of the following:

- (1) A parent or guardian of the victim;
- (2) A guardian ad litem or court-appointed special advocate appointed for the victim; or
- (3) The juvenile officer.

**455.505. RELIEF MAY BE SOUGHT FOR CHILD FOR DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT — ORDER OF PROTECTION EFFECTIVE, WHERE.** — 1. An order of protection for a child who has been subject to domestic violence by a present or former household member or [person] **sexual assault or stalking [the child] by any person** may be sought under sections 455.500 to 455.538 by the filing of a verified petition alleging such domestic violence [or], stalking, **or sexual assault** by the respondent.

2. A child's right to relief under sections 455.500 to 455.538 shall not be affected by the child's leaving the residence or household to avoid domestic violence.

3. Any protection order issued pursuant to sections 455.500 to 455.538 shall be effective throughout the state in all cities and counties.

**455.513. EX PARTE ORDERS, ISSUED WHEN, EFFECTIVE WHEN — FOR GOOD CAUSE SHOWN, DEFINED — INVESTIGATION BY CHILDREN'S DIVISION, WHEN — REPORT DUE WHEN, AVAILABLE TO WHOM — TRANSFER TO JUVENILE COURT, WHEN.** — 1. Upon the filing of a verified petition under sections 455.500 to 455.538, for good cause shown in the petition, and

upon finding that no prior order regarding custody is pending or has been made or that the respondent is less than seventeen years of age, the court may immediately issue an ex parte order of protection. An immediate and present danger of domestic violence [or], stalking, or **sexual assault** to a child shall constitute good cause for purposes of this section. An ex parte order of protection entered by the court shall be in effect until the time of the hearing. The court shall deny the ex parte order and dismiss the petition if the petitioner is not authorized to seek relief pursuant to section 455.505.

2. Upon the entry of the ex parte order of protection, the court shall enter its order appointing a guardian ad litem or court-appointed special advocate to represent the child victim.

3. If the allegations in the petition would give rise to jurisdiction under section 211.031, the court may direct the children's division to conduct an investigation and to provide appropriate services. The division shall submit a written investigative report to the court and to the juvenile officer within thirty days of being ordered to do so. The report shall be made available to the parties and the guardian ad litem or court-appointed special advocate.

4. If the allegations in the petition would give rise to jurisdiction under section 211.031 because the respondent is less than seventeen years of age, the court may issue an ex parte order and shall transfer the case to juvenile court for a hearing on a full order of protection. Service of process shall be made pursuant to section 455.035.

**455.520. TEMPORARY RELIEF AVAILABLE — EX PARTE ORDERS.** — 1. Any ex parte order of protection granted under sections 455.500 to 455.538 shall be to protect the victim from domestic violence [or], stalking, or **sexual assault** and may include such terms as the court reasonably deems necessary to ensure the victim's safety, including but not limited to:

(1) Restraining the respondent from committing or threatening to commit domestic violence, stalking, **sexual assault**, molesting, or disturbing the peace of the victim;

(2) Restraining the respondent from entering the family home of the victim except as specifically authorized by the court;

(3) Restraining the respondent from communicating with the victim in any manner or through any medium, except as specifically authorized by the court;

(4) A temporary order of custody of minor children.

2. No ex parte order of protection excluding the respondent from the family home shall be issued unless the court finds that:

(1) The order is in the best interests of the child or children remaining in the home;

(2) The verified allegations of domestic violence present a substantial risk to the child or children unless the respondent is excluded; and

(3) A remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party.

**455.523. FULL ORDER OF PROTECTION — RELIEF AVAILABLE.** — 1. Any full order of protection granted under sections 455.500 to 455.538 shall be to protect the victim from domestic violence [and], stalking, and **sexual assault** may include such terms as the court reasonably deems necessary to ensure the petitioner's safety, including but not limited to:

(1) Temporarily enjoining the respondent from committing domestic violence or **sexual assault**, threatening to commit domestic violence or **sexual assault**, stalking, molesting, or disturbing the peace of the victim;

(2) Temporarily enjoining the respondent from entering the family home of the victim, except as specifically authorized by the court;

(3) Temporarily enjoining the respondent from communicating with the victim in any manner or through any medium, except as specifically authorized by the court.

2. When the court has, after hearing for any full order of protection, issued an order of protection, it may, in addition:

- (1) Award custody of any minor child born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best interests of the child require such order be issued;
- (2) Award visitation;
- (3) Award child support in accordance with supreme court rule 88.01 and chapter 452;
- (4) Award maintenance to petitioner when petitioner and respondent are lawfully married in accordance with chapter 452;
- (5) Order respondent to make or to continue to make rent or mortgage payments on a residence occupied by the victim if the respondent is found to have a duty to support the victim or other dependent household members;
- (6) Order the respondent to participate in a court- approved counseling program designed to help stop violent behavior or to treat substance abuse;
- (7) Order the respondent to pay, to the extent that he or she is able, the costs of his or her treatment, together with the treatment costs incurred by the victim;
- (8) Order the respondent to pay a reasonable fee for housing and other services that have been provided or that are being provided to the victim by a shelter for victims of domestic violence.

**455.538. BEGINNING JANUARY 1, 2017 — LAW ENFORCEMENT AGENCIES RESPONSE TO VIOLATION OF ORDER — ARREST FOR VIOLATION, PENALTIES — CUSTODY TO BE RETURNED TO RIGHTFUL PARTY, WHEN. — 1.** When a law enforcement officer has probable cause to believe that a party, against whom a protective order for a child has been entered, has committed an act in violation of that order, the officer shall have the authority to arrest the respondent whether or not the violation occurred in the presence of the arresting officer.

2. When a person, against whom an order of protection for a child has been entered, fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

3. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

4. (1) Violation of the terms and conditions of an ex parte or full order of protection with regard to domestic violence, stalking, **sexual assault**, child custody, communication initiated by the respondent, or entrance upon the premises of the victim's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of which the respondent has notice, shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class E felony. Evidence of a prior plea of guilty or finding of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of a prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

(2) For purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection for a child if the law enforcement officer responding to a call of a reported incident of domestic violence [or], stalking, **sexual assault**, or violation of an order of protection for a child presents a copy of the order of protection to the respondent.

5. The fact that an act by a respondent is a violation of a valid order of protection for a child shall not preclude prosecution of the respondent for other crimes arising out of the incident in which the protection order is alleged to have been violated.

**455.538. UNTIL DECEMBER 31, 2016—LAW ENFORCEMENT AGENCIES RESPONSE TO VIOLATION OF ORDER — ARREST FOR VIOLATION, PENALTIES — CUSTODY TO BE RETURNED TO RIGHTFUL PARTY, WHEN.** — 1. When a law enforcement officer has probable cause to believe that a party, against whom a protective order for a child has been entered, has committed an act in violation of that order, the officer shall have the authority to arrest the respondent whether or not the violation occurred in the presence of the arresting officer.

2. When a person, against whom an order of protection for a child has been entered, fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

3. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

4. (1) Violation of the terms and conditions of an ex parte or full order of protection with regard to domestic violence, stalking, **sexual assault**, child custody, communication initiated by the respondent, or entrance upon the premises of the victim's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of which the respondent has notice, shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence of a prior plea of guilty or finding of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of a prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

(2) For purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection for a child if the law enforcement officer responding to a call of a reported incident of domestic violence [or], stalking, **sexual assault**, or violation of an order of protection for a child presents a copy of the order of protection to the respondent.

5. The fact that an act by a respondent is a violation of a valid order of protection for a child shall not preclude prosecution of the respondent for other crimes arising out of the incident in which the protection order is alleged to have been violated.

Approved July 8, 2015

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SB 354 [SS SCS SB 354]

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

**Allows Department of Health and Senior Services to supply qualifying individuals with amino acid-based elemental formulas**

AN ACT to amend chapter 192, RSMo, by adding thereto one new section relating to amino acid-based elemental formulas.

SECTION

A. Enacting clause.

192.390. Cost of certain formulas to be provided — rulemaking authority.

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

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**SECTION A. ENACTING CLAUSE.** — Chapter 192, RSMo, is amended by adding thereto one new section, to be known as section 192.390, to read as follows:

**192.390. COST OF CERTAIN FORMULAS TO BE PROVIDED — RULEMAKING AUTHORITY.**

— **1.** The department shall provide coverage, subject to state and federal appropriations, for the full cost of amino acid-based elemental formulas, meaning formulas made from single nonallergenic amino acids, for children under nineteen years of age with a medical diagnosis of immunoglobulin E and nonimmunoglobulin E mediated allergies to multiple food proteins, food protein-induced enterocolitis syndrome, eosinophilic disorders, and impaired absorption of nutrients caused by disorders affecting the absorptive surface, functional length, and motility of the gastrointestinal tract.

**2.** The department may promulgate rules and regulations 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, 2015, shall be invalid and void.

Approved July 2, 2015

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SB 366 [SS SB 366]

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

**Modifies the provisions of the Missouri higher education savings program**

AN ACT to repeal section 166.435, RSMo, and to enact in lieu thereof two new sections relating to the Missouri higher education savings program, with a contingent effective date.

**SECTION**

- A. Enacting clause.
- 166.421. Income tax refund, contribution to education savings account — election, how made.
- 166.435. State tax exemption. State tax exemption.
- B. Emergency clause .

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

**SECTION A. ENACTING CLAUSE.** — Section 166.435, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 166.421 and 166.435, to read as follows:

**166.421. INCOME TAX REFUND, CONTRIBUTION TO EDUCATION SAVINGS ACCOUNT — ELECTION, HOW MADE.** — **1.** A participant may elect to contribute all or part of a refund of personal income tax to an account that has been established under sections 166.400 to 166.456 by direct deposit to the financial institution managing the account. The amount elected to be contributed by the participant shall be at least twenty-five dollars and shall be as a contribution only for the tax year in which the refund is issued. The election to contribute may not be changed or revoked.

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2. The election shall be made on a form prescribed by the department of revenue and filed with the taxpayer's tax return for the tax year or at such other time and in such other manner as the department may prescribe. The department of revenue shall prescribe the maximum number of accounts to which a taxpayer may elect to contribute a portion of the refund. Notwithstanding the limit prescribed by the department, a parent or legal guardian shall be permitted to contribute a portion of his or her refund to accounts held by each of his or her children.

3. The election to contribute all or a portion of a refund shall be void, and no portion of the refund may be contributed to an account if the taxpayer's refund is offset to pay amounts owed by the taxpayer.

**166.435. STATE TAX EXEMPTION. STATE TAX EXEMPTION.** — 1. Notwithstanding any law to the contrary, the assets of the savings program held by the board, the assets of any deposit program authorized in section 166.500, and the assets of any qualified tuition savings program established pursuant to Section 529 of the Internal Revenue Code and any income therefrom shall be exempt from all taxation by the state or any of its political subdivisions. Income earned or received from the savings program, deposit, or other qualified tuition savings programs established under Section 529 of the Internal Revenue Code program, or refunds of qualified higher education expenses received by a beneficiary from an eligible educational institution in connection with withdrawal from enrollment at such institution which are contributed within sixty days of withdrawal to a qualified tuition savings program of which such individual is a beneficiary shall not be subject to state income tax imposed pursuant to chapter 143 and shall be eligible for any benefits provided in accordance with Section 529 of the Internal Revenue Code. The exemption from taxation pursuant to this section shall apply only to assets and income maintained, accrued, or expended pursuant to the requirements of the savings program established pursuant to sections 166.400 to 166.455, the deposit program established pursuant to sections 166.500 to 166.529, and other qualified tuition savings programs established under Section 529 of the Internal Revenue Code, and no exemption shall apply to assets and income expended for any other purposes. Annual contributions made to the savings program held by the board, the deposit program, and any qualified tuition savings program established under Section 529 of the Internal Revenue Code up to and including eight thousand dollars per participating taxpayer, and up to sixteen thousand dollars for married individuals filing a joint tax return, shall be subtracted in determining Missouri adjusted gross income pursuant to section 143.121.

2. If any deductible contributions to or earnings from any such program referred to in this section are distributed and not used to pay qualified higher education expenses or are not held for the minimum length of time established by the appropriate Missouri board, the amount so distributed shall be added to the Missouri adjusted gross income of the participant, or, if the participant is not living, the beneficiary.

3. The provisions of this section shall apply to tax years beginning on or after January 1, 2008, and the provisions of this section with regard to sections 166.500 to 166.529 shall apply to tax years beginning on or after January 1, 2004.

**SECTION B. EMERGENCY CLAUSE.** — The repeal and reenactment of section 166.435 of this act shall become effective only upon notification by the State Treasurer to the Revisor of Statutes of the passage of H.R. 529 of the 114th United States Congress.

Approved July 14, 2015

SB 373 [SS SB 373]

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

**Creates the Division of Alcohol and Tobacco Control Fund for the enforcement of liquor and tobacco laws and directs fees from liquor licenses and permits to the fund**

AN ACT to repeal section 311.730, RSMo, and to enact in lieu thereof two new sections relating to the establishment of the division of alcohol and tobacco control fund.

SECTION

- A. Enacting clause.  
311.730. Fees paid into general revenue fund and division of alcohol and tobacco control fund.  
311.735. Division of alcohol and tobacco control fund created, use of moneys.

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

**SECTION A. ENACTING CLAUSE.** — Section 311.730, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 311.730 and 311.735, to read as follows:

**311.730. FEES PAID INTO GENERAL REVENUE FUND AND DIVISION OF ALCOHOL AND TOBACCO CONTROL FUND.** — **1. Except as otherwise provided under subsection 2 of this section,** all fees collected by the director of revenue as provided for in this chapter, including licenses, inspection and gauging fees, shall be paid into the state treasury, to the credit of the ordinary state revenue fund.

**2. Seventy percent of all fees for licenses and permits collected under this chapter shall be paid to the credit of the division of alcohol and tobacco control fund established under section 311.735.**

**311.735. DIVISION OF ALCOHOL AND TOBACCO CONTROL FUND CREATED, USE OF MONEYS.** — **1. There is hereby created in the state treasury the "Division of Alcohol and Tobacco Control Fund".** The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, money in the fund shall be used solely by the division of alcohol and tobacco control for the administration of this chapter and sections 407.925 to 407.934, and any duties under such chapter and sections relating to licensing, training, technical assistance, and regulations.

**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. Appropriation of funds by the general assembly from the fund shall be used to support the division of alcohol and tobacco control for the purposes provided under subsection 1 of this section.**

Approved July 14, 2015

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SB 392 [SB 392]

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

**Modifies which members of fraternal benefit societies are exempt from insurance agent licensing**

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AN ACT to repeal section 378.633, RSMo, and to enact in lieu thereof one new section relating to fraternal benefit society agents.

SECTION

A. Enacting clause.

378.633. Agents, licensing of — persons not deemed agents.

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

**SECTION A. ENACTING CLAUSE.** — Section 378.633, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 378.633, to read as follows:

**378.633. AGENTS, LICENSING OF — PERSONS NOT DEEMED AGENTS.** — 1. Agents of societies shall be licensed in accordance with the provisions of chapter 375 regulating the licensing, revocation, suspension or termination of license of resident and nonresident agents; provided, that no person who acted in the capacity as an agent of a licensed society for a period of at least six months immediately preceding October 13, 1969, shall be required to take an examination as provided for in chapter 375 as a condition for licensure as an insurance agent.

2. The following individuals shall not be deemed an agent of a fraternal benefit society within the provisions of subsection 1 of this section:

(1) Any regular salaried officer, employee or secretary of a licensed society or any subordinate lodge thereof, who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained; or

(2) Any member representative of any society [which insures its members against death, dismemberment and disability resulting from accident only and which pays no commission or other consideration for the collection of premiums for such contracts] **who devotes, or intends to devote, less than fifty percent of his or her time to the solicitation and procurement of insurance contracts for such society. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of fifty thousand dollars, or, in the case of any other kind or kinds of insurance which the society might write, on the persons of more than twenty-five individuals and who has received or will receive a commission or other compensation therefor, shall be presumed to be devoting, or intending to devote, fifty percent or more of his or her time to the solicitation or procurement of insurance contracts for such society.**

Approved July 2, 2015

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SB 405 [SB 405]

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

**Raises the outer threshold amount for a county to be eligible to collect a greater percentage of the total taxes collected as a fee**

AN ACT to repeal section 52.260, RSMo, and to enact in lieu thereof one new section relating to fees collected by the county collector.

SECTION

A. Enacting clause.

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52.260. Fees for collecting certain taxes and fees to be deposited in county general revenue fund (certain counties).

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

**SECTION A. ENACTING CLAUSE.** — Section 52.260, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 52.260, to read as follows:

**52.260. FEES FOR COLLECTING CERTAIN TAXES AND FEES TO BE DEPOSITED IN COUNTY GENERAL REVENUE FUND (CERTAIN COUNTIES).** — The collector in counties not having township organization shall collect on behalf of the county the following fees for collecting all state, county, bridge, road, school, back and delinquent, and all other local taxes, including merchants', manufacturers' and liquor and beer licenses, other than ditch and levee taxes, and the fees collected shall be deposited in the county general fund:

(1) In all counties wherein the total amount levied for any one year exceeds two hundred and fifty thousand dollars and is less than three hundred and fifty thousand dollars, a fee of two and one-half percent on the amount collected;

(2) In all counties wherein the total amount levied for any one year exceeds three hundred and fifty thousand dollars and is less than [two] **three** million dollars, a fee of two and one-half percent on the first three hundred and fifty thousand dollars collected and one percent on whatever amount may be collected over three hundred and fifty thousand dollars;

(3) In all counties wherein the total amount levied for any one year exceeds [two] **three** million dollars, a fee of one percent on the amounts collected.

Approved July 6, 2015

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SB 426 [SB 426]

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

**Allows community mental health liaisons to access specified confidential records maintained by specified institutions**

AN ACT to repeal section 630.140, RSMo, and to enact in lieu thereof one new section relating to community mental health liaisons.

SECTION

A. Enacting clause.

630.140. Records confidential, when — may be disclosed, to whom, how, when — release to be documented — court records confidential, exceptions.

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

**SECTION A. ENACTING CLAUSE.** — Section 630.140, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 630.140, to read as follows:

**630.140. RECORDS CONFIDENTIAL, WHEN — MAY BE DISCLOSED, TO WHOM, HOW, WHEN — RELEASE TO BE DOCUMENTED — COURT RECORDS CONFIDENTIAL, EXCEPTIONS.**

— 1. Information and records compiled, obtained, prepared or maintained by the residential facility, mental health program operated, funded or licensed by the department or otherwise, specialized service, or by any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632 in the course of providing services to either voluntary or involuntary patients, residents or clients shall be confidential.

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2. The facilities or programs shall disclose information and records including medication given, dosage levels, and individual ordering such medication to the following upon their request:

(1) The parent of a minor patient, resident or client;  
(2) The guardian or other person having legal custody of the patient, resident or client;  
(3) The attorney of a patient, resident or client who is a ward of the juvenile court, an alleged incompetent, an incompetent ward or a person detained under chapter 632, as evidenced by court orders of the attorney's appointment;

(4) An attorney or personal physician as authorized by the patient, resident or client;

(5) Law enforcement officers and agencies, information about patients, residents or clients committed pursuant to chapter 552, but only to the extent necessary to carry out the responsibilities of their office, and all such law enforcement officers shall be obligated to keep such information confidential;

(6) The entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. Sections 15042 to 15044. The entity or agency shall be able to obtain access to the records of a person with developmental disabilities who is a client of the entity or agency if such person has authorized the entity or agency to have such access; and the records of any person with developmental disabilities who, by reason of mental or physical condition is unable to authorize the entity or agency to have such access, if such person does not have a legal guardian, conservator or other legal representative, and a complaint has been received by the entity or agency with respect to such person or there is probable cause to believe that such person has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section;

(7) The entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. 10801 shall be able to obtain access to the records of a patient, resident or client who by reason of mental or physical condition is unable to authorize the system to have such access, who does not have a legal guardian, conservator or other legal representative and with respect to whom a complaint has been received by the system or there is probable cause to believe that such individual has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section. The provisions of this subdivision shall apply to a person who has a significant mental illness or impairment as determined by a mental health professional qualified under the laws and regulations of the state;

(8) To mental health coordinators, but only to the extent necessary to carry out their duties under chapter 632;

**(9) To individuals, designated by the department of mental health as community mental health liaisons, for the purpose of coordination of care and services.**

3. The facilities or services may disclose information and records under any of the following:

(1) As authorized by the patient, resident or client;

(2) To persons or agencies responsible for providing health care services to such patients, residents or clients as permitted by the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended;

(3) To the extent necessary for a recipient to make a claim or for a claim to be made on behalf of a recipient for aid or insurance;

(4) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, program evaluations or similar studies; provided, that such personnel shall not identify, directly or indirectly, any individual patient, resident or client in any report of such research, audit or evaluation, or otherwise disclose patient, resident or client identities in any manner;

(5) To the courts as necessary for the administration of chapter 211, 475, 552, or 632;

(6) To law enforcement officers or public health officers, but only to the extent necessary to carry out the responsibilities of their office, and all such law enforcement and public health officers shall be obligated to keep such information confidential;

(7) Pursuant to an order of a court or administrative agency of competent jurisdiction;

(8) To the attorney representing petitioners, but only to the extent necessary to carry out their duties under chapter 632;

(9) To the department of social services or the department of health and senior services as necessary to report or have investigated abuse, neglect, or rights violations of patients, residents, or clients;

(10) To a county board established pursuant to sections 205.968 to 205.972, RSMo 1986, but only to the extent necessary to carry out their statutory responsibilities. The county board shall not identify, directly or indirectly, any individual patient, resident or client;

(11) To parents, legal guardians, treatment professionals, law enforcement officers, and other individuals who by having such information could mitigate the likelihood of a suicide. The facility treatment team shall have determined that the consumer's safety is at some level of risk;

**(12) To individuals, designated by the department of mental health as community mental health liaisons, for the purpose of coordination of care and services.**

4. The facility or program shall document the dates, nature, purposes and recipients of any records disclosed under this section and sections 630.145 and 630.150.

5. The records and files maintained in any court proceeding under chapter 632 shall be confidential and available only to the patient, the patient's attorney, guardian, or, in the case of a minor, to a parent or other person having legal custody of the patient, to the petitioner and the petitioner's attorney, and to the Missouri state highway patrol for reporting to the National Instant Criminal Background Check System (NICS), **and to individuals designated by the department of mental health as community mental health liaisons for the purpose of coordination of care and services.** In addition, the court may order the release or use of such records or files only upon good cause shown, and the court may impose such restrictions as the court deems appropriate.

6. Nothing contained in this chapter shall limit the rights of discovery in judicial or administrative procedures as otherwise provided for by statute or rule.

7. The fact of admission of a voluntary or involuntary patient to a mental health facility under chapter 632 may only be disclosed as specified in subsections 2 and 3 of this section.

Approved July 13, 2015

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SB 435 [SCS SB 435]

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

**Allows the Governor to convey the State's interest in specified property owned by the state in St. Louis County to the county**

AN ACT to authorize the conveyance of property owned by the state in St. Louis County to St. Louis County.

SECTION

A. Enacting clause.

1. Conveyance of property in St. Louis County to St. Louis County.

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

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**SECTION 1. CONVEYANCE OF PROPERTY IN ST. LOUIS COUNTY TO ST. LOUIS COUNTY.**

— 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in St. Louis County to St. Louis County. The property to be conveyed is more particularly described as follows:

A tract of land being part of U.S. Survey 1909, Township 47 North, Range 7 East, St. Louis County, Missouri and being more particularly described as follows:

Commencing at the most eastern corner of property conveyed to the State of Missouri and described in an instrument recorded in deed book 9143 page 2161 of the St. Louis County records; thence northwestwardly along the northeast lines of said property conveyed to the State of Missouri the following courses and distances: North 55 degrees 47 minutes 48 seconds West 931.66 feet, South 34 degrees 00 minutes 13 seconds West 30.96 feet, North 53 degrees 48 minutes 20 seconds West 156.16 feet and South 43 degrees 14 minutes 47 seconds West 26.31 feet to the actual point of beginning of the property described herein. From said point of beginning, thence along curve to the right whose radius bears South 25 degrees 16 minutes 19 seconds West 225.00 feet from the last mentioned point an arc distance of 40.71 feet to a point; thence South 13 degrees 55 minutes 42 seconds east 11.02 feet to a point; thence South 53 degrees 16 minutes 42 seconds east 23.16 feet to a point; thence South 61 degrees 10 minutes 49 seconds East 62.24 feet to a point; thence South 54 degrees 00 minutes 08 seconds East 207.82 feet to a point; thence along a curve to the right whose radius point bears South 57 degrees 17 minutes 09 seconds West 35.00 feet from the last mentioned point an arc distance of 26.43 feet to a point; thence along a compound curve to the right whose radius point bears North 79 degrees 26 minutes 59 seconds West 138.00 feet from the last mentioned point an arc distance 41.66 feet to a point; thence south 27 degrees 50 minutes 45 seconds West 37.93 feet to a point; thence along a curve to the right whose radius point bears North 62 degrees 09 minutes 15 seconds West 85.00 feet from the last mentioned point an arc length of 97.19 feet to a point; thence North 86 degrees 38 minutes 33 seconds West 65.10 feet to a point; thence along a curve to the right whose radius point bears North 03 degrees 21 minutes 27 seconds East 275.00 feet from the last mentioned point an arc length of 38.52 feet to a point; thence North 61 degrees 29 minutes 42 seconds West 199.58 feet to a point; thence North 20 degrees 09 minutes 54 seconds East 45.15 feet to a point; thence North 48 degrees 32 minutes 45 seconds West 222.73 feet to a point; thence along a curve to the right whose radius point bears South 43 degrees 19 minutes 00 seconds East 295.00 feet from the last mentioned point an arc distance of 51.15 feet to a point; thence along a compound curve to the right whose radius point bears South 33 degrees 22 minutes 54 seconds East 200.00 feet from the last mentioned point an arc distance of 65.46 feet to a point in the aforesaid Northeast line of property conveyed to the State of Missouri; thence Southeastwardly along said Northeast line the following courses and distances: South 04 degrees 41 minutes 10 seconds West 84.67 feet, South 66 degrees 09 minutes 05 seconds East 74.40 feet and North 43 degrees 14 minutes 47 seconds East 141.30 feet to the point of beginning and containing 95,736 square feet or 2.198 acres according to a survey by EFK MOEN, L.L.C during January, 2015.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the sale.

**3. The instrument of conveyance shall include the following statement: The state and St. Louis County, recognizing the special relationship they share in regard to the use of the property, shall continue to cooperate regarding the use of the property.**

**4. The attorney general shall approve the form of the instrument of conveyance.**

Approved July 10, 2015

SB 445 [CCS HCS SCS SB 445]

**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 environmental protection**

AN ACT to repeal sections 29.380, 260.200, 260.225, 260.250, 260.320, 260.325, 260.330, 260.335, and 260.345, RSMo, and to enact in lieu thereof eleven new sections relating to environmental protection.

**SECTION**

- A. Enacting clause.
- 29.380. Solid waste management districts, authority to audit, when.
- 260.200. Definitions.
- 260.225. Duties of department — rules and regulations, promulgation of, procedures — model solid waste management plans, contents — coordination with other state agencies.
- 260.250. Major appliances, waste oil, yard waste and batteries, disposal restricted — recycling of certain items, addressed in solid waste management plan.
- 260.320. Executive board, meetings, selection of officers — powers, duties — contractual authority.
- 260.324. Grants, familial relationships not a disqualifier — voting restrictions.
- 260.325. Solid waste management plan, submitted to department, contents, procedures — approval, revision of plan — funds may be made available, purpose — audits.
- 260.330. Landfill fee, amount — solid waste management fund, created, purpose — department to enforce — transfer station, fee charged — free disposal day, notice.
- 260.335. Distribution of fund moneys, uses — grants, distribution of moneys — advisory board, solid waste, duties.
- 260.345. Solid waste advisory board, members — qualifications — duties and powers — removal of board member for failure to attend meetings, when — report — meetings.
- 643.650. Sulfur dioxide, ambient air quality monitoring or modeling network.

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

**SECTION A. ENACTING CLAUSE.** — Sections 29.380, 260.200, 260.225, 260.250, 260.320, 260.325, 260.330, 260.335, and 260.345, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 29.380, 260.200, 260.225, 260.250, 260.320, 260.324, 260.325, 260.330, 260.335, 260.345, and 643.650, to read as follows:

**29.380. SOLID WASTE MANAGEMENT DISTRICTS, AUTHORITY TO AUDIT, WHEN.** — 1. The state auditor shall have the authority to audit solid waste management districts created under section 260.305 in the same manner as the auditor may audit any agency of the state.

2. Beginning August 28, [2012] **2015**, the state auditor [shall conduct an audit of each solid waste management district created under section 260.305 and thereafter shall] **may** conduct audits of [each] solid waste management [district] **districts** as he or she deems necessary. The state auditor may request reimbursement from the district for the costs of conducting the audit. **If the auditor requests such reimbursement, the solid waste management district shall reimburse the auditor for the costs of conducting the audit and the moneys shall be deposited in the petition audit revolving trust fund created under section 29.230. Such**

**reimbursement shall be limited to two percent of the solid waste management district's annual monetary allocation.**

**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;

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

(5) "City", any incorporated city, town, or village;

(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;

(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;

(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;

(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;

(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;

(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;

(12) "Department", the department of natural resources;

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

(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;

(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;

(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;

(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;

(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;

(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;

(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;

(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;

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

(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;

(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;

(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;

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

(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;

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

(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;

(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;

(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;

(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;

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

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

(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;

(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;

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

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

(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;

(42) "Scrap tire end-user facility", a site where scrap tires are used as a fuel or fuel supplement or converted into a usable 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;

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

(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;

(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;

(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;

(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;

(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;

(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;

**(50) "Solid waste management project", a targeted project that meets statewide waste reduction and recycling priorities, and for which no solid waste management district grant applicant has applied to perform, and for which no qualified applicants have applied to perform such project by a competitive bid issued by the solid waste management district for the completion of such project;**

(51) "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;

~~[(51)]~~ (52) "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;

[(52)] (53) "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;

[(53)] (54) "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;

[(54)] (55) "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;

[(55)] (56) "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;

[(56)] (57) "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.

**260.225. DUTIES OF DEPARTMENT — RULES AND REGULATIONS, PROMULGATION OF, PROCEDURES — MODEL SOLID WASTE MANAGEMENT PLANS, CONTENTS — COORDINATION WITH OTHER STATE AGENCIES.** — 1. The department shall administer sections 260.200 to 260.345 to maximize the amount of recovered materials and to minimize disposal of solid waste in sanitary landfills. The department shall, through its rules and regulations, policies and programs, encourage to the maximum extent practical, the use of alternatives to disposal. To accomplish these objectives, the department shall:

(1) Administer the state solid waste management program pursuant to the provisions of sections 260.200 to 260.345;

(2) Cooperate with appropriate federal, state, and local units of government of this or any other state, and with appropriate private organizations in carrying out its authority under sections 260.200 to 260.345;

(3) Promulgate and adopt, after public hearing, such rules and regulations relating to solid waste management systems as shall be necessary to carry out the purposes and provisions of sections 260.200 to 260.345;

(4) Develop a statewide solid waste management plan in cooperation with local governments, regional planning commissions, districts, and appropriate state agencies;

(5) Provide technical assistance to cities, counties, districts, and authorities;

(6) Develop and conduct a mandatory solid waste technician training course of study;

(7) Conduct and contract for research and investigations in the overall area of solid waste storage, collection, recycling, recovery, processing, transportation and disposal, including, but not limited to, new and novel procedures;

(8) Subject to appropriation by the general assembly, establish criteria for awarding state-funded solid waste management [planning] grants to cities, counties, and districts, allocate funds, and monitor the proper expenditure of funds;

(9) Issue such permits and orders and conduct such inspections as may be necessary to implement the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345;

(10) Initiate, conduct and support research, demonstration projects, and investigations with applicable federal programs pertaining to solid waste management systems;

(11) Contract with cities, counties, districts and other persons to act as its agent in carrying out the provisions of sections 260.200 to 260.345 under procedures and conditions as the department shall prescribe.

2. The department shall prepare model solid waste management plans suitable for rural and urban areas which may be used by districts, counties and cities. In preparing the model plans, the department shall consider the findings and recommendations of the study of resource recovery conducted pursuant to section 260.038, and other relevant information. The plans shall conform with the requirements of section 260.220 and section 260.325 and shall:

- (1) Emphasize waste reduction and recycling;
- (2) Provide for economical waste management through regional **and district** cooperation;
- (3) Be designed to achieve a reduction of forty percent in solid waste disposed, by weight, by January 1, 1998;
- (4) Establish a means to measure the amount of reduction in solid waste disposal;
- (5) Provide for the elimination of small quantities of hazardous waste, including household hazardous waste, from the solid waste stream; and
- (6) Be designed to guide planning in districts, cities and counties including cities and counties not within a district.

3. The model plan shall be distributed to the executive board of each solid waste district and to counties and cities not within a district by December 1, 1991.

4. No rule or portion of a rule promulgated under the authority of sections 260.200 to 260.345 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

5. In coordination with other appropriate state agencies, including, but not limited to, the division of commerce and industrial development, the office of administration, the environmental improvement and energy resource authority, and the public service commission, the department shall perform the following duties in order to promote resource recovery in the state in ways which are economically feasible:

- (1) Identify markets for recovered materials and for energy which could be produced from solid waste and household hazardous waste;
- (2) Provide technical assistance pertaining to all aspects of resource recovery to cities, counties, districts, industries and other persons;
- (3) Identify opportunities for resource recovery programs in state government and initiate actions to implement such programs;
- (4) Expand state contracts for procurement of items made from recovered materials;
- (5) Initiate recycling programs within state government;
- (6) Provide a clearinghouse of consumer information regarding the need to support resource recovery, utilize and develop new resource recovery programs around existing enterprises, request and purchase recycled products, participate in resource conservation activities and other relevant issues;
- (7) Identify barriers to resource recovery and resource conservation, and propose remedies to these barriers; and
- (8) Initiate activities with appropriate state and local entities to develop markets for recovered materials.

**260.250. MAJOR APPLIANCES, WASTE OIL, YARD WASTE AND BATTERIES, DISPOSAL RESTRICTED—RECYCLING OF CERTAIN ITEMS, ADDRESSED IN SOLID WASTE MANAGEMENT PLAN.** — 1. After January 1, 1991, major appliances, waste oil and lead-acid batteries shall not be disposed of in a solid waste disposal area. After January 1, 1992, yard waste shall not be disposed of in a solid waste disposal area, except as otherwise provided in this subsection. After August 28, 2007, yard waste may be disposed of in a municipal solid waste disposal area or portion of a municipal solid waste disposal area provided that:

(1) The department has approved the municipal solid waste disposal area or portion of a solid waste disposal area to operate as a bioreactor under 40 CFR Part 258.4; and

(2) The landfill gas produced by the bioreactor shall be used for the generation of electricity.

2. After January 1, 1991, waste oil shall not be incinerated without energy recovery.

3. Each **solid waste management** district[, county and city] shall address the recycling, reuse and handling of aluminum containers, glass containers, newspapers, **textiles**, whole tires, plastic beverage containers and steel containers in its solid waste management plan consistent with sections 260.250 to 260.345.

**260.320. EXECUTIVE BOARD, MEETINGS, SELECTION OF OFFICERS — POWERS, DUTIES — CONTRACTUAL AUTHORITY.** — 1. The executive board shall meet within thirty days after the selection of the initial members. The time and place of the first meeting of the board shall be designated by the council. A majority of the members of the board shall constitute a quorum. At its first meeting the board shall elect a chairman from its members and select a secretary, treasurer and such officers or employees as it deems expedient or necessary for the accomplishment of its purposes. The secretary and treasurer need not be members of the board.

2. The executive board may adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted, including procedures for the replacement of persons who habitually fail to attend board meetings, and may establish its fiscal year, adopt an official seal, apply for and accept grants, gifts or appropriations from any public or private sector, make all expenditures which are incidental and necessary to carry out its purposes and powers, and take such action, enter into such agreements and exercise all other powers and functions necessary or appropriate to carry out the duties and purposes of sections 260.200 to 260.345.

3. The executive board shall:

(1) Review and comment upon applications for permits submitted pursuant to section 260.205, for solid waste processing facilities and solid waste disposal areas which are to be located within the region or, if located in an adjacent region, which will impact solid waste management practices within the region;

(2) Prepare and recommend to the council a solid waste management plan for the district;

(3) Identify illegal dump sites and provide all available information about such sites to the appropriate county prosecutor and to the department;

(4) Establish an education program to inform the public about responsible **solid** waste management practices;

(5) Establish procedures to minimize the introduction of small quantities of hazardous waste, including household hazardous waste, into the solid waste stream;

(6) Assure adequate capacity to manage waste which is not otherwise removed from the solid waste stream; and

(7) Appoint one or more geographically balanced advisory committees composed of the representatives of commercial generators, representatives of the solid waste management industry, and two citizens unaffiliated with a solid waste facility or operation to assess and make recommendations on solid waste management.

4. The executive board may enter into contracts with any person **or entity** for services related to any component of the solid waste management system. Bid specifications for solid waste management services shall be designed to meet the objectives of sections 260.200 to 260.345, encourage small businesses to engage and compete in the delivery of **solid** waste management services and to minimize the long-run cost of managing solid waste. Bid specifications shall enumerate the minimum components and minimum quantities of waste products which shall be recycled by the successful bidder. The board shall divide the district into units to maximize access for small businesses when it requests bids for solid waste management services, **but in no case shall a district executive board perform solid waste management projects that compete with a qualified private enterprise.**

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5. No person shall serve as a member of the council or of the executive board who is a stockholder, officer, agent, attorney or employee or who is in any way pecuniarily interested in any business which engages in any aspect of solid waste management regulated under sections 260.200 to 260.345; provided, however, that such member may own stock in a publicly traded corporation which may be involved in **solid** waste management as long as such holdings are not substantial.

**260.324. GRANTS, FAMILIAL RELATIONSHIPS NOT A DISQUALIFIER — VOTING RESTRICTIONS. — 1. Any person or entity that applies for a grant under section 260.335 shall not be disqualified from receiving such grant on the basis that there exists a familial relationship between the applicant and any member of the solid waste management district executive board within the fourth degree by consanguinity or affinity. For applicants with a familial relationship with any member of the solid waste management district executive board within the fourth degree by consanguinity or affinity, the solid waste management district executive board shall only approve such grant application if approved by a vote of two-thirds of the solid waste management district executive board.**

**2. If a person, who by virtue of his or her membership on a solid waste management district executive board, does not abstain from a vote to award a solid waste management district grant to any person or entity providing solid waste management services who is a relative within the fourth degree by consanguinity or affinity, the person shall forfeit membership on the solid waste management district executive board and the solid waste management district council.**

**260.325. SOLID WASTE MANAGEMENT PLAN, SUBMITTED TO DEPARTMENT, CONTENTS, PROCEDURES — APPROVAL, REVISION OF PLAN — FUNDS MAY BE MADE AVAILABLE, PURPOSE — AUDITS. — 1.** The executive board of each district shall submit to the department a plan which has been approved by the council for a solid waste management system serving areas within its jurisdiction and shall, from time to time, submit officially adopted revisions of its plan as it deems necessary or the department may require. In developing the district's solid waste management plan, the board shall consider the model plan distributed to the board pursuant to section 260.225. Districts may contract with a licensed professional engineer or as provided in chapter 70 for the development and submission of a joint plan.

2. The board shall hold at least one public hearing in each county in the district when it prepares a proposed plan or substantial revisions to a plan in order to solicit public comments on the plan.

3. The solid waste management plan shall be submitted to the department within eighteen months of the formation of the district. The plan shall be prepared and submitted according to the procedures specified in section 260.220 and this section.

4. Each plan shall:

(1) Delineate areas within the district where solid waste management systems are in existence;

(2) Reasonably conform to the rules and regulations adopted by the department for implementation of sections 260.200 to 260.345;

(3) Delineate provisions for the collection of recyclable materials or collection points for recyclable materials;

(4) Delineate provisions for the collection of compostable materials or collection points for compostable materials;

(5) Delineate provisions for the separation of household waste and other small quantities of hazardous waste at the source or prior to disposal;

(6) Delineate provisions for the orderly extension of solid waste management services in a manner consistent with the needs of the district, including economic impact, and in a manner which will minimize degradation of the waters or air of the state, prevent public nuisances or

health hazards, promote recycling and waste minimization and otherwise provide for the safe and sanitary management of solid waste;

(7) Take into consideration existing comprehensive plans, population trend projections, engineering and economics so as to delineate those portions of the district which may reasonably be expected to be served by a solid waste management system;

(8) Specify how the district will achieve a reduction in solid waste placed in sanitary landfills through waste minimization, reduction and recycling;

(9) Establish a timetable, with milestones, for the reduction of solid waste placed in a landfill through waste minimization, reduction and recycling;

(10) Establish an education program to inform the public about responsible waste management practices;

(11) Establish procedures to minimize the introduction of small quantities of hazardous waste, including household hazardous waste, into the solid waste stream;

(12) Establish a time schedule and proposed method of financing for the development, construction and operation of the planned solid waste management system together with the estimated cost thereof;

(13) Identify methods by which rural households that are not served by a regular solid waste collection service may participate in waste reduction, recycling and resource recovery efforts within the district; and

(14) Include such other reasonable information as the department shall require.

5. The board shall review the district's solid waste management plan at least every twenty-four months for the purpose of evaluating the district's progress in meeting the requirements and goals of the plan, and shall submit plan revisions to the department and council.

6. In the event any plan or part thereof is disapproved, the department shall furnish any and all reasons for such disapproval and shall offer assistance for correcting deficiencies. The executive board shall within sixty days revise and resubmit the plan for approval or request a hearing in accordance with section 260.235. Any plan submitted by a district shall stand approved one hundred twenty days after submission unless the department disapproves the plan or some provision thereof.

7. The director may institute appropriate action under section 260.240 to compel submission of plans in accordance with sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345.

8. [The provisions of section 260.215 to the contrary notwithstanding, any county within a region which on or after January 1, 1995, is not a member of a district shall by June 30, 1995, submit a solid waste management plan to the department of natural resources. Any county which withdraws from a district and all cities within the county with a population over five hundred shall submit a solid waste plan or a revision to an existing plan to the department of natural resources within one hundred eighty days of its decision not to participate. The plan shall meet the requirements of section 260.220 and this section.

9.] Funds may, upon appropriation, be made available to [cities, counties and] districts[,] under section 260.335, for the purpose of implementing the requirements of this section.

[10.] **9. Based upon the financial assistance amounts set forth in this section, the district executive board shall arrange for an independent financial [audits] statement audit of the records and accounts of its operations by a certified public accountant or a firm of certified public accountants. Districts receiving [two] more than eight hundred thousand dollars [or more] of financial assistance annually shall have annual independent financial statement audits [and]; districts receiving [less than] between two hundred fifty thousand dollars and eight hundred thousand dollars of financial assistance annually shall have a biennial independent financial [audits at least once every two years. The state auditor may examine the findings of such audits and may conduct audits of the districts] statement audit for the two-year period. All other districts shall be monitored biennially by the department and, based upon the findings within the monitoring report, may be required to arrange for an independent**

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**financial statement audit for the biennial monitoring period under review.** Subject to limitations caused by the availability of resources, the department shall conduct a performance audit of grants to each district at least once every [three] five years, or as deemed necessary by the department based upon district grantee performance.

**260.330. LANDFILL FEE, AMOUNT — SOLID WASTE MANAGEMENT FUND, CREATED, PURPOSE — DEPARTMENT TO ENFORCE — TRANSFER STATION, FEE CHARGED — FREE DISPOSAL DAY, NOTICE.** — 1. Except as otherwise provided in subsection 6 of this section, effective October 1, 1990, each operator of a solid waste sanitary landfill shall collect a charge equal to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted and each operator of the solid waste demolition landfill shall collect a charge equal to one dollar per ton or its volumetric equivalent of solid waste accepted. Each operator shall submit the charge, less collection costs, to the department of natural resources for deposit in the "Solid Waste Management Fund" which is hereby created. On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the same percentage as 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 index, as defined and officially recorded by the United States Department of Labor or its successor agency. No annual adjustment shall be made to the charge imposed under this subsection during October 1, 2005, to October 1, [2017] 2027, except an adjustment amount consistent with the need to fund the operating costs of the department and taking into account any annual percentage increase in the total of the volumetric equivalent of solid waste accepted in the prior year at solid waste sanitary landfills and demolition landfills and solid waste to be transported out of this state for disposal that is accepted at transfer stations. No annual increase during October 1, 2005, to October 1, [2017] 2027, shall exceed the percentage increase measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency and calculated on the percentage of revenues dedicated under subdivision (1) of subsection 2 of section 260.335. Any such annual adjustment shall only be made at the discretion of the director, subject to appropriations. Collection costs shall be established by the department and shall not exceed two percent of the amount collected pursuant to this section.

2. The department shall, by rule and regulation, provide for the method and manner of collection.

3. The charges established in this section shall be enumerated separately from the disposal fee charged by the landfill and may be passed through to persons who generated the solid waste. Moneys [shall be] transmitted to the department shall be no less than the amount collected less collection costs and in a form, manner and frequency as the department shall prescribe. The provisions of section 33.080 to the contrary notwithstanding, moneys in the account shall not lapse to general revenue at the end of each biennium. Failure to collect the charge does not relieve the operator from responsibility for transmitting an amount equal to the charge to the department.

4. The department may examine or audit financial records and landfill activity records and measure landfill usage to verify the collection and transmittal of the charges established in this section. The department may promulgate by rule and regulation procedures to ensure and to verify that the charges imposed herein are properly collected and transmitted to the department.

5. Effective October 1, 1990, any person who operates a transfer station in Missouri shall transmit a fee to the department for deposit in the solid waste management fund which is equal to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such fee shall be applicable to all solid waste to be transported out of the state for disposal. On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the same percentage as 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 index, as defined and officially recorded by the United States Department of Labor or its successor agency. No annual

adjustment shall be made to the charge imposed under this subsection during October 1, 2005, to October 1, [2017] 2027, except an adjustment amount consistent with the need to fund the operating costs of the department and taking into account any annual percentage increase in the total of the volumetric equivalent of solid waste accepted in the prior year at solid waste sanitary landfills and demolition landfills and solid waste to be transported out of this state for disposal that is accepted at transfer stations. No annual increase during October 1, 2005, to October 1, [2017] 2027, shall exceed the percentage increase measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency and calculated on the percentage of revenues dedicated under subdivision (1) of subsection 2 of section 260.335. Any such annual adjustment shall only be made at the discretion of the director, subject to appropriations. The department shall prescribe rules and regulations governing the transmittal of fees and verification of waste volumes transported out of state from transfer stations. Collection costs shall also be established by the department and shall not exceed two percent of the amount collected pursuant to this subsection. A transfer station with the sole function of separating materials for recycling or resource recovery activities shall not be subject to the fee imposed in this subsection.

6. Each political subdivision which owns an operational solid waste disposal area may designate, pursuant to this section, up to two free disposal days during each calendar year. On any such free disposal day, the political subdivision shall allow residents of the political subdivision to dispose of any solid waste which may be lawfully disposed of at such solid waste disposal area free of any charge, and such waste shall not be subject to any state fee pursuant to this section. Notice of any free disposal day shall be posted at the solid waste disposal area site and in at least one newspaper of general circulation in the political subdivision no later than fourteen days prior to the free disposal day.

**260.335. DISTRIBUTION OF FUND MONEYS, USES—GRANTS, DISTRIBUTION OF MONEYS—ADVISORY BOARD, SOLID WASTE, DUTIES.** — 1. Each fiscal year eight hundred thousand dollars from the solid waste management fund shall be made available, upon appropriation, to the department and the environmental improvement and energy resources authority to fund activities that promote the development and maintenance of markets for recovered materials. Each fiscal year up to two hundred thousand dollars from the solid waste management fund **may** be used by the department upon appropriation for grants to solid waste management districts for district grants and district operations. Only those solid waste management districts that are allocated fewer funds under subsection 2 of this section than if revenues had been allocated based on the criteria in effect in this section on August 27, 2004, are eligible for these grants. An eligible district shall receive a proportionate share of these grants based on that district's share of the total reduction in funds for eligible districts calculated by comparing the amount of funds allocated under subsection 2 of this section with the amount of funds that would have been allocated using the criteria in effect in this section on August 27, 2004. The department and the authority shall establish a joint interagency agreement with the department of economic development to identify state priorities for market development and to develop the criteria to be used to judge proposed projects. Additional moneys may be appropriated in subsequent fiscal years if requested. The authority shall establish a procedure to measure the effectiveness of the grant program under this subsection and shall provide a report to the governor and general assembly by January fifteenth of each year regarding the effectiveness of the program.

2. All remaining revenues deposited into the fund each fiscal year after moneys have been made available under subsection 1 of this section shall be allocated as follows:

(1) Thirty-nine percent of the revenues shall be dedicated, upon appropriation, to the elimination of illegal solid waste disposal, to identify and prosecute persons disposing of solid waste illegally, to conduct solid waste permitting activities, to administer grants and perform other duties imposed in sections 260.200 to 260.345 and section 260.432. In addition to the

thirty-nine percent of the revenues, the department may receive any annual increase in the charge during October 1, 2005, to October 1, [2014] **2027**, under section 260.330 and such increases shall be used solely to fund the operating costs of the department;

(2) Sixty-one percent of the revenues, except any annual increases in the charge under section 260.330 during October 1, 2005, to October 1, [2014] **2027**, which shall be used solely to fund the operating costs of the department, shall be allocated [through grants, upon appropriation, to participating cities, counties, and] **to solid waste management** districts. Revenues to be allocated under this subdivision shall be divided as follows: forty percent shall be allocated based on the population of each district in the latest decennial census, and sixty percent shall be allocated based on the amount of revenue generated within each district. For the purposes of this subdivision, revenue generated within each district shall be determined from the previous year's data. No more than fifty percent of the revenue allocable under this subdivision may be allocated to the districts upon approval of the department for implementation of a solid waste management plan and district operations, and at least fifty percent of the revenue allocable to the districts under this subdivision shall be allocated to the cities and counties of the district or to persons or entities providing solid waste management, waste reduction, recycling and related services in these cities and counties. Each district shall receive a minimum of seventy-five thousand dollars under this subdivision. After August 28, [2005] **2015**, each district shall receive a minimum of ninety-five thousand dollars under this subdivision for district grants and district operations. Each district receiving moneys under this subdivision shall expend such moneys pursuant to a solid waste management plan required under section 260.325, and only in the case that the district is in compliance with planning requirements established by the department. Moneys shall be awarded based upon grant applications. **The following criteria may be considered to establish the order of district grant priority:**

(a) **Grants to facilities of organizations employing individuals with disabilities under sections 178.900 to 178.960 or sections 205.968 to 205.972;**

(b) **Grants for proposals that will promote and maximize the sharing of district resources;**

(c) **Grants for proposals which provide methods of recycling and solid waste reduction; and**

(d) **All other grants.**

Any **allocated district** moneys remaining in any fiscal year due to insufficient or inadequate grant applications [may] **shall** be reallocated [pursuant to this subdivision] **for grant applications in subsequent years or for solid waste management projects other than district operations, including a district's next request for solid waste management project proposals. Any allocated district moneys remaining after a period of five years shall revert to the credit of the solid waste management fund created under section 260.330;**

(3) Except for the amount up to one-fourth of the department's previous fiscal year expense, any remaining unencumbered funds generated under subdivision (1) of this subsection in prior fiscal years shall be reallocated under this section;

(4) Funds may be made available under this subsection for the administration and grants of the used motor oil program described in section 260.253;

(5) The department and the environmental improvement and energy resources authority shall conduct sample audits of grants provided under this subsection.

3. **In addition to the criteria listed in this section**, the advisory board created in section 260.345 shall recommend criteria to be used to allocate grant moneys to districts, cities and counties. These criteria shall establish a priority for proposals which provide methods of solid waste reduction and recycling. The department shall promulgate criteria for evaluating grants by rule and regulation. Projects of cities and counties located within a district which are funded by grants under this section shall conform to the district solid waste management plan.

4. The funds awarded to the districts[, counties and cities] pursuant to this section shall be used for the purposes set forth in sections 260.300 to 260.345, and shall be used in addition to

existing funds appropriated by counties and cities for solid waste management and shall not supplant county or city appropriated funds.

5. **Once grants are approved by the solid waste management district, the district shall submit to the department the appropriate forms associated with the grant application and any supporting information to verify that appropriate public notice procedures were followed, that grant proposals were reviewed and ranked by the district, and that only eligible costs as set forth in regulations are to be funded. Within thirty days, the department shall review the grant application. If the department finds any deficiencies, or needs more information in order to evaluate the grant application, the department shall notify the district in writing. The district shall have an additional thirty days to respond to the department's request and to submit any additional information to the department. Within thirty days of receiving additional information, the department shall either approve or deny the grant application. If the department takes no action, the grant application shall be deemed approved.** The department, in conjunction with the solid waste advisory board, shall review the performance of all grant recipients to ensure that grant moneys were appropriately and effectively expended to further the purposes of the grant, as expressed in the recipient's grant application. The grant application shall contain specific goals and implementation dates, and grant recipients shall be contractually obligated to fulfill same. The department may require the recipient to submit periodic reports and such other data as are necessary, both during the grant period and up to five years thereafter, to ensure compliance with this section. The department may audit the records of any recipient to ensure compliance with this section. Recipients of grants under sections 260.300 to 260.345 shall maintain such records as required by the department. If a grant recipient fails to maintain records or submit reports as required herein, refuses the department access to the records, or fails to meet the department's performance standards, the department may withhold subsequent grant payments, if any, and may compel the repayment of funds provided to the recipient pursuant to a grant.

6. The department shall provide for a security interest in any machinery or equipment purchased through grant moneys distributed pursuant to this section.

7. If the moneys are not transmitted to the department within the time frame established by the rule promulgated, interest shall be imposed on the moneys due the department at the rate of ten percent per annum from the prescribed due date until payment is actually made. These interest amounts shall be deposited to the credit of the solid waste management fund.

**260.345. SOLID WASTE ADVISORY BOARD, MEMBERS — QUALIFICATIONS — DUTIES AND POWERS — REMOVAL OF BOARD MEMBER FOR FAILURE TO ATTEND MEETINGS, WHEN — REPORT — MEETINGS. — 1.** A state "Solid Waste Advisory Board" is created within the department of natural resources. The advisory board shall be composed of the chairman of the executive board of each of the solid waste management districts **or his or her designee**, and other members as provided in this section. Up to five additional members shall be appointed by the **program director of the solid waste management program** of which two members shall represent the solid waste management industry and have an economic interest in or activity with any solid waste facility or operation, one member may represent the solid waste composting or recycling industry businesses, and the remaining members shall be public members who have demonstrated interest in solid waste management issues and shall have no economic interest in or activity with any solid waste facility or operation but may own stock in a publicly traded corporation which may be involved in waste management as long as such holdings are not substantial. **Beginning January 1, 2016**, the advisory board shall [advise] **prepare an annual report due on or before January first advising** the department regarding:

- (1) The efficacy of its technical assistance program;
- (2) Solid waste management problems experienced by solid waste management districts;
- (3) The effects of proposed rules and regulations upon solid waste management within the districts;

- (4) Criteria to be used in awarding grants pursuant to section 260.335;
- (5) Waste management issues pertinent to the districts;
- (6) The development of improved methods of solid waste minimization, recycling and resource recovery; [and]
- (7) **Unfunded solid waste management projects; and**
- (8) Such other matters as the advisory board may determine.

2. The advisory board shall also prepare a report on the subjects listed in subdivisions (1) to (8) of subsection 1 of this section for any standing, statutory, interim, or select committee or task force of the general assembly having jurisdiction over solid waste. If a report is so prepared, it shall be delivered to the chair and vice-chair of each committee or task force having such jurisdiction. Such a report shall not be generated and distributed on more than an annual basis.

3. The advisory board shall hold regular meetings on a quarterly basis. A special meeting of the advisory board may occur upon a majority vote of all advisory board members at a regular quarterly meeting. Reasonable written notice of all meetings shall be given by the director of the solid waste management program to all members of the advisory board. A majority of advisory board members shall constitute a quorum for the transaction of business. All actions of the advisory board shall be taken at regular quarterly meetings open to the public.

**643.650. SULFUR DIOXIDE, AMBIENT AIR QUALITY MONITORING OR MODELING NETWORK.** — 1. Any owner of a coal-fired electric generating source in a National Ambient Air Quality Standards nonattainment area currently designated as of April 1, 2015, shall develop an ambient air quality monitoring or modeling network to characterize the sulfur dioxide air quality surrounding the electric generating source. The network shall adequately monitor the ambient air quality for sulfur dioxide surrounding the entire electric generating source and shall operate for not less than twelve consecutive quarters. The owner of such electric generating source shall notify the department of the manner in which it intends to characterize by either modeling or monitoring the air quality around such source. The location of any monitoring network installed by the owner of such electric generating source within a one-hour sulfur dioxide National Ambient Air Quality Standards nonattainment area shall be approved by the department.

2. Affected sources located in undesignated areas that elect to use monitoring to evaluate ambient air quality shall be consulted by the department on the use of existing monitors as well as the location of any new monitors intended to comprise the sulfur dioxide monitoring network. The department shall not submit its recommendation to the Environmental Protection Agency on the manner in which data will be gathered for the designation process that is inconsistent with the elections made by affected sources under this section. Where affected sources have elected to monitor under this section, the department shall submit recommendations for the designation process by the date set by a final, effective, and applicable Environmental Protection Agency requirement relating to state attainment designations and not prior.

3. The department shall consider all ambient air quality monitoring network data collected under subsection 1 of this section and under any agreement authorized under this subsection prior to proposing to the commission any sulfur dioxide limitation, emission reduction requirement, or other requirement for purposes of the one-hour sulfur dioxide National Ambient Air Quality Standard for any electric generating source that has elected to install a monitoring network under this section, except:

- (1) The department may propose to the commission any sulfur dioxide limitations or emission reduction requirements specifically agreed to in any voluntary agreement entered into between the department and any owner of an electric generating source that has elected to install a monitoring network under this section; and

(2) The department may propose to the commission any adjustments to the sulfur dioxide limitations or emission reduction requirements applicable to any electric generating source located in a sulfur dioxide nonattainment area and subject to an agreement under subdivision (1) of this subsection, as justified by an ambient air quality analysis relying on no fewer than two quarters of monitored data collected through the monitoring network allowable under subsection 1 of this section and consistent with such agreement.

4. Nothing in this section shall prohibit the department from entering into an agreement with an owner of an electric generating source to limit or reduce sulfur dioxide emissions at such affected source that is below the source's permitted sulfur dioxide emission rate.

Approved July 14, 2015

SB 456 [HCS SCS SB 456]

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

**Modifies provisions relating to the ownership of motor vehicles**

AN ACT to repeal sections 301.140, 301.190, 301.562, and 407.581, RSMo, and to enact in lieu thereof five new sections relating to ownership of motor vehicles.

SECTION

- A. Enacting clause.
- 301.140. Plates removed on transfer or sale of vehicles — use by purchaser — reregistration — use of dealer plates — temporary permits, fees — credit, when — expiration date, certain subsections — additional temporary license plate may be purchased, when — salvage vehicles, temporary permits — rulemaking authority.
- 301.190. Certificate of registration — application, contents — special requirements, certain vehicles — fees — failure to obtain within time limit, delinquency penalty — duration of certificate — unlawful to operate without certificate — certain vehicles brought into state in a wrecked or damaged condition or after being towed, inspection — certain vehicles previously registered in other states, designation — reconstructed motor vehicles, procedure.
- 301.213. Dealers may purchase or accept in trade vehicles subject to existing liens, when — sale of vehicles subject to lien, when — replacement certificate, when — liability, when — violation, penalty.
- 301.562. License suspension, revocation, refusal to renew — procedure — grounds — complaint may be filed, when — clear and present danger, what constitutes, revocation or suspension authorized, procedure — agreement permitted, when.
- 301.644. Electronic signature permitted, when.
- 407.581. Purchase or trade of motor vehicles with certificates of title, requirements — resale of such vehicles, requirements — dealer liability, when — seller misrepresentation, liability.

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

**SECTION A. ENACTING CLAUSE.** — Sections 301.140, 301.190, 301.562, and 407.581, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 301.140, 301.190, 301.213, 301.562, and 301.644, to read as follows:

**301.140. PLATES REMOVED ON TRANSFER OR SALE OF VEHICLES — USE BY PURCHASER — REREGISTRATION — USE OF DEALER PLATES — TEMPORARY PERMITS, FEES — CREDIT, WHEN — EXPIRATION DATE, CERTAIN SUBSECTIONS — ADDITIONAL TEMPORARY LICENSE PLATE MAY BE PURCHASED, WHEN — SALVAGE VEHICLES, TEMPORARY PERMITS — RULEMAKING AUTHORITY.** — 1. Upon the transfer of ownership of any motor vehicle or trailer, the certificate of registration and the right to use the number plates shall expire and the number

plates shall be removed by the owner at the time of the transfer of possession, and it shall be unlawful for any person other than the person to whom such number plates were originally issued to have the same in his or her possession whether in use or not, unless such possession is solely for charitable purposes; except that the buyer of a motor vehicle or trailer who trades in a motor vehicle or trailer may attach the license plates from the traded-in motor vehicle or trailer to the newly purchased motor vehicle or trailer. The operation of a motor vehicle with such transferred plates shall be lawful for no more than thirty days, **or no more than ninety days if the dealer is selling the motor vehicle under the provisions of section 301.213.** As used in this subsection, the term "trade-in motor vehicle or trailer" shall include any single motor vehicle or trailer sold by the buyer of the newly purchased vehicle or trailer, as long as the license plates for the trade-in motor vehicle or trailer are still valid.

2. In the case of a transfer of ownership the original owner may register another motor vehicle under the same number, upon the payment of a fee of two dollars, if the motor vehicle is of horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, not in excess of that originally registered. When such motor vehicle is of greater horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a greater fee is prescribed, applicant shall pay a transfer fee of two dollars and a pro rata portion for the difference in fees. When such vehicle is of less horsepower, gross weight or (in case of a passenger-carrying commercial motor vehicle) seating capacity, for which a lesser fee is prescribed, applicant shall not be entitled to a refund.

3. License plates may be transferred from a motor vehicle which will no longer be operated to a newly purchased motor vehicle by the owner of such vehicles. The owner shall pay a transfer fee of two dollars if the newly purchased vehicle is of horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, not in excess of that of the vehicle which will no longer be operated. When the newly purchased motor vehicle is of greater horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a greater fee is prescribed, the applicant shall pay a transfer fee of two dollars and a pro rata portion of the difference in fees. When the newly purchased vehicle is of less horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a lesser fee is prescribed, the applicant shall not be entitled to a refund.

4. The director of the department of revenue shall have authority to produce or allow others to produce a weather resistant, nontearing temporary permit authorizing the operation of a motor vehicle or trailer by a buyer for not more than thirty days, **or no more than ninety days if issued by a dealer selling the motor vehicle under the provisions of section 301.213,** from the date of purchase. The temporary permit authorized under this section may be purchased by the purchaser of a motor vehicle or trailer from the central office of the department of revenue or from an authorized agent of the department of revenue upon proof of purchase of a motor vehicle or trailer for which the buyer has no registration plate available for transfer and upon proof of financial responsibility, or from a motor vehicle dealer upon purchase of a motor vehicle or trailer for which the buyer has no registration plate available for transfer, or from a motor vehicle dealer upon purchase of a motor vehicle or trailer for which the buyer has registered and is awaiting receipt of registration plates. The director of the department of revenue or a producer authorized by the director of the department of revenue may make temporary permits available to registered dealers in this state, authorized agents of the department of revenue or the department of revenue. The price paid by a motor vehicle dealer, an authorized agent of the department of revenue or the department of revenue for a temporary permit shall not exceed five dollars for each permit. The director of the department of revenue shall direct motor vehicle dealers and authorized agents to obtain temporary permits from an authorized producer. Amounts received by the director of the department of revenue for temporary permits shall constitute state revenue; however, amounts received by an authorized producer other than the director of the department of revenue shall not constitute state revenue and any amounts received

by motor vehicle dealers or authorized agents for temporary permits purchased from a producer other than the director of the department of revenue shall not constitute state revenue. In no event shall revenues from the general revenue fund or any other state fund be utilized to compensate motor vehicle dealers or other producers for their role in producing temporary permits as authorized under this section. Amounts that do not constitute state revenue under this section shall also not constitute fees for registration or certificates of title to be collected by the director of the department of revenue under section 301.190. No motor vehicle dealer, authorized agent or the department of revenue shall charge more than five dollars for each permit issued. The permit shall be valid for a period of thirty days, **or no more than ninety days if issued by a dealer selling the motor vehicle under the provisions of section 301.213**, from the date of purchase of a motor vehicle or trailer, or from the date of sale of the motor vehicle or trailer by a motor vehicle dealer for which the purchaser obtains a permit as set out above. No permit shall be issued for a vehicle under this section unless the buyer shows proof of financial responsibility. Each temporary permit issued shall be securely fastened to the back or rear of the motor vehicle in a manner and place on the motor vehicle consistent with registration plates so that all parts and qualities of the temporary permit thereof shall be plainly and clearly visible, reasonably clean and are not impaired in any way.

5. The permit shall be issued on a form prescribed by the director of the department of revenue and issued only for the applicant's temporary operation of the motor vehicle or trailer purchased to enable the applicant to temporarily operate the motor vehicle while proper title and registration plates are being obtained, or while awaiting receipt of registration plates, and shall be displayed on no other motor vehicle. Temporary permits issued pursuant to this section shall not be transferable or renewable and shall not be valid upon issuance of proper registration plates for the motor vehicle or trailer. The director of the department of revenue shall determine the size, material, design, numbering configuration, construction, and color of the permit. The director of the department of revenue, at his or her discretion, shall have the authority to reissue, and thereby extend the use of, a temporary permit previously and legally issued for a motor vehicle or trailer while proper title and registration are being obtained.

6. Every motor vehicle dealer that issues temporary permits shall keep, for inspection by proper officers, an accurate record of each permit issued by recording the permit number, the motor vehicle dealer's number, buyer's name and address, the motor vehicle's year, make, and manufacturer's vehicle identification number, and the permit's date of issuance and expiration date. Upon the issuance of a temporary permit by either the central office of the department of revenue, a motor vehicle dealer or an authorized agent of the department of revenue, the director of the department of revenue shall make the information associated with the issued temporary permit immediately available to the law enforcement community of the state of Missouri.

7. Upon the transfer of ownership of any currently registered motor vehicle wherein the owner cannot transfer the license plates due to a change of motor vehicle category, the owner may surrender the license plates issued to the motor vehicle and receive credit for any unused portion of the original registration fee against the registration fee of another motor vehicle. Such credit shall be granted based upon the date the license plates are surrendered. No refunds shall be made on the unused portion of any license plates surrendered for such credit.

8. The provisions of subsections 4, 5, and 6 of this section shall expire July 1, 2019.

9. An additional temporary license plate produced in a manner and of materials determined by the director to be the most cost-effective means of production with a configuration that matches an existing or newly issued plate may be purchased by a motor vehicle owner to be placed in the interior of the vehicle's rear window such that the driver's view out of the rear window is not obstructed and the plate configuration is clearly visible from the outside of the vehicle to serve as the visible plate when a bicycle rack or other item obstructs the view of the actual plate. Such temporary plate is only authorized for use when the matching actual plate is affixed to the vehicle in the manner prescribed in subsection 5 of section 301.130. The fee charged for the temporary plate shall be equal to the fee charged for a temporary permit issued

under subsection 4 of this section. Replacement temporary plates authorized in this subsection may be issued as needed upon the payment of a fee equal to the fee charged for a temporary permit under subsection 4 of this section. The newly produced third plate may only be used on the vehicle with the matching plate, and the additional plate shall be clearly recognizable as a third plate and only used for the purpose specified in this subsection.

10. Notwithstanding the provisions of section [301.127] **301.217**, the director may issue a temporary permit to an individual who possesses a salvage motor vehicle which requires an inspection under subsection 9 of section 301.190. The operation of a salvage motor vehicle for which the permit has been issued shall be limited to the most direct route from the residence, maintenance, or storage facility of the individual in possession of such motor vehicle to the nearest authorized inspection facility and return to the originating location. Notwithstanding any other requirements for the issuance of a temporary permit under this section, an individual obtaining a temporary permit for the purpose of operating a motor vehicle to and from an examination facility as prescribed in this subsection shall also purchase the required motor vehicle examination form which is required to be completed for an examination under subsection 9 of section 301.190 and provide satisfactory evidence that such vehicle has passed a motor vehicle safety inspection for such vehicle as required in section 307.350.

11. The director of the department of revenue may promulgate all necessary rules and regulations for the administration 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, 2012, shall be invalid and void.

12. The repeal and reenactment of this section shall become effective on the date the department of revenue or a producer authorized by the director of the department of revenue begins producing temporary permits described in subsection 4 of such section, or on July 1, 2013, whichever occurs first. If the director of revenue or a producer authorized by the director of the department of revenue begins producing temporary permits prior to July 1, 2013, the director of the department of revenue shall notify the revisor of statutes of such fact.

**301.190. CERTIFICATE OF REGISTRATION — APPLICATION, CONTENTS — SPECIAL REQUIREMENTS, CERTAIN VEHICLES — FEES — FAILURE TO OBTAIN WITHIN TIME LIMIT, DELINQUENCY PENALTY — DURATION OF CERTIFICATE — UNLAWFUL TO OPERATE WITHOUT CERTIFICATE — CERTAIN VEHICLES BROUGHT INTO STATE IN A WRECKED OR DAMAGED CONDITION OR AFTER BEING TOWED, INSPECTION — CERTAIN VEHICLES PREVIOUSLY REGISTERED IN OTHER STATES, DESIGNATION — RECONSTRUCTED MOTOR VEHICLES, PROCEDURE.** — 1. No certificate of registration of any motor vehicle or trailer, or number plate therefor, shall be issued by the director of revenue unless the applicant therefor shall make application for and be granted a certificate of ownership of such motor vehicle or trailer, or shall present satisfactory evidence that such certificate has been previously issued to the applicant for such motor vehicle or trailer. Application shall be made within thirty days after the applicant acquires the motor vehicle or trailer, **unless the motor vehicle was acquired under section 301.213 in which case the applicant shall make application within thirty days after receiving title from the dealer**, upon a blank form furnished by the director of revenue and shall contain the applicant's identification number, a full description of the motor vehicle or trailer, the vehicle identification number, and the mileage registered on the odometer at the time of transfer of ownership, as required by section 407.536, together with a statement of the applicant's source of title and of any liens or encumbrances on the motor vehicle or trailer, provided that for good cause shown the director of revenue may extend the period of time for

making such application. When an owner wants to add or delete a name or names on an application for certificate of ownership of a motor vehicle or trailer that would cause it to be inconsistent with the name or names listed on the notice of lien, the owner shall provide the director with documentation evidencing the lienholder's authorization to add or delete a name or names on an application for certificate of ownership.

2. The director of revenue shall use reasonable diligence in ascertaining whether the facts stated in such application are true and shall, to the extent possible without substantially delaying processing of the application, review any odometer information pertaining to such motor vehicle that is accessible to the director of revenue. If satisfied that the applicant is the lawful owner of such motor vehicle or trailer, or otherwise entitled to have the same registered in his name, the director shall thereupon issue an appropriate certificate over his signature and sealed with the seal of his office, procured and used for such purpose. The certificate shall contain on its face a complete description, vehicle identification number, and other evidence of identification of the motor vehicle or trailer, as the director of revenue may deem necessary, together with the odometer information required to be put on the face of the certificate pursuant to section 407.536, a statement of any liens or encumbrances which the application may show to be thereon, and, if ownership of the vehicle has been transferred, the name of the state issuing the transferor's title and whether the transferor's odometer mileage statement executed pursuant to section 407.536 indicated that the true mileage is materially different from the number of miles shown on the odometer, or is unknown.

3. The director of revenue shall appropriately designate on the current and all subsequent issues of the certificate the words "Reconstructed Motor Vehicle", "Motor Change Vehicle", "Specially Constructed Motor Vehicle", or "Non-USA-Std Motor Vehicle", as defined in section 301.010. Effective July 1, 1990, on all original and all subsequent issues of the certificate for motor vehicles as referenced in subsections 2 and 3 of section 301.020, the director shall print on the face thereof the following designation: "Annual odometer updates may be available from the department of revenue.". On any duplicate certificate, the director of revenue shall reprint on the face thereof the most recent of either:

(1) The mileage information included on the face of the immediately prior certificate and the date of purchase or issuance of the immediately prior certificate; or

(2) Any other mileage information provided to the director of revenue, and the date the director obtained or recorded that information.

4. The certificate of ownership issued by the director of revenue shall be manufactured in a manner to prohibit as nearly as possible the ability to alter, counterfeit, duplicate, or forge such certificate without ready detection. In order to carry out the requirements of this subsection, the director of revenue may contract with a nonprofit scientific or educational institution specializing in the analysis of secure documents to determine the most effective methods of rendering Missouri certificates of ownership nonalterable or noncounterfeitable.

5. The fee for each original certificate so issued shall be eight dollars and fifty cents, in addition to the fee for registration of such motor vehicle or trailer. If application for the certificate is not made within thirty days after the vehicle is acquired by the applicant, **or where the motor vehicle was acquired under section 301.213 and the applicant fails to make application within thirty days after receiving title from the dealer**, a delinquency penalty fee of twenty-five dollars for the first thirty days of delinquency and twenty-five dollars for each thirty days of delinquency thereafter, not to exceed a total of two hundred dollars, but such penalty may be waived by the director for a good cause shown. If the director of revenue learns that any person has failed to obtain a certificate within thirty days after acquiring a motor vehicle or trailer, **or where the motor vehicle was acquired under section 301.213 and the applicant fails to make application within thirty days after receiving title from the dealer**, or has sold a vehicle without obtaining a certificate, he shall cancel the registration of all vehicles registered in the name of the person, either as sole owner or as a co-owner, and shall notify the person that the cancellation will remain in force until the person pays the delinquency penalty fee provided

in this section, together with all fees, charges and payments which the person should have paid in connection with the certificate of ownership and registration of the vehicle. The certificate shall be good for the life of the motor vehicle or trailer so long as the same is owned or held by the original holder of the certificate and shall not have to be renewed annually.

6. Any applicant for a certificate of ownership requesting the department of revenue to process an application for a certificate of ownership in an expeditious manner requiring special handling shall pay a fee of five dollars in addition to the regular certificate of ownership fee.

7. It is unlawful for any person to operate in this state a motor vehicle or trailer required to be registered under the provisions of the law unless a certificate of ownership has been applied for as provided in this section.

8. Before an original Missouri certificate of ownership is issued, an inspection of the vehicle and a verification of vehicle identification numbers shall be made by the Missouri state highway patrol on vehicles for which there is a current title issued by another state if a Missouri salvage certificate of title has been issued for the same vehicle but no prior inspection and verification has been made in this state, except that if such vehicle has been inspected in another state by a law enforcement officer in a manner comparable to the inspection process in this state and the vehicle identification numbers have been so verified, the applicant shall not be liable for the twenty-five dollar inspection fee if such applicant submits proof of inspection and vehicle identification number verification to the director of revenue at the time of the application. The applicant, who has such a title for a vehicle on which no prior inspection and verification have been made, shall pay a fee of twenty-five dollars for such verification and inspection, payable to the director of revenue at the time of the request for the application, which shall be deposited in the state treasury to the credit of the state highways and transportation department fund.

9. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, specially constructed motor vehicle, kit vehicle, motor change vehicle, non-USA-std motor vehicle, or other vehicle as required by the director of revenue shall be accompanied by a vehicle examination certificate issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The vehicle examination shall include a verification of vehicle identification numbers and a determination of the classification of the vehicle. The owner of a vehicle which requires a vehicle examination certificate shall present the vehicle for examination and obtain a completed vehicle examination certificate prior to submitting an application for a certificate of ownership to the director of revenue. Notwithstanding any provision of the law to the contrary, an owner presenting a motor vehicle which has been issued a salvage title and which is ten years of age or older to a vehicle examination described in this subsection in order to obtain a certificate of ownership with the designation prior salvage motor vehicle shall not be required to repair or restore the vehicle to its original appearance in order to pass or complete the vehicle examination. The fee for the vehicle examination application shall be twenty-five dollars and shall be collected by the director of revenue at the time of the request for the application and shall be deposited in the state treasury to the credit of the state highways and transportation department fund. If the vehicle is also to be registered in Missouri, the safety inspection required in chapter 307 and the emissions inspection required under chapter 643 shall be completed and the fees required by section 307.365 and section 643.315 shall be charged to the owner.

10. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri or as required by section 301.020, it shall be accompanied by a current inspection form certified by a duly authorized official inspection station as described in chapter 307. The completed form shall certify that the manufacturer's identification number for the vehicle has been inspected, that it is correctly displayed on the vehicle and shall certify the reading shown on the odometer at the time of inspection. The inspection station shall collect the same fee as authorized in section 307.365 for making the inspection, and the fee shall be deposited in the same manner as provided in section 307.365. If the vehicle is also to be registered in Missouri, the safety inspection required

in chapter 307 and the emissions inspection required under chapter 643 shall be completed and only the fees required by section 307.365 and section 643.315 shall be charged to the owner. This section shall not apply to vehicles being transferred on a manufacturer's statement of origin.

11. Motor vehicles brought into this state in a wrecked or damaged condition or after being towed as an abandoned vehicle pursuant to another state's abandoned motor vehicle procedures shall, in lieu of the inspection required by subsection 10 of this section, be inspected by the Missouri state highway patrol in accordance with subsection 9 of this section. If the inspection reveals the vehicle to be in a salvage or junk condition, the director shall so indicate on any Missouri certificate of ownership issued for such vehicle. Any salvage designation shall be carried forward on all subsequently issued certificates of title for the motor vehicle.

12. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as a reconstructed motor vehicle, motor change vehicle, specially constructed motor vehicle, or prior salvage vehicle, the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the name of the issuing state and such prior designation. The absence of any prior designation shall not relieve a transferor of the duty to exercise due diligence with regard to such certificate of ownership prior to the transfer of a certificate. If a transferor exercises any due diligence with regard to a certificate of ownership, the legal transfer of a certificate of ownership without any designation that is subsequently discovered to have or should have had a designation shall be a transfer free and clear of any liabilities of the transferor associated with the missing designation.

13. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as non-USA-std motor vehicle, the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the words "Non-USA-Std Motor Vehicle".

14. The director of revenue and the superintendent of the Missouri state highway patrol shall make and enforce rules for the administration of the inspections required by this section.

15. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, manufactured forty or more years prior to the current model year, and which has a value of three thousand dollars or less shall be accompanied by:

(1) A proper affidavit submitted by the owner explaining how the motor vehicle or trailer was acquired and, if applicable, the reasons a valid certificate of ownership cannot be furnished;

(2) Photocopies of receipts, bills of sale establishing ownership, or titles, and the source of all major component parts used to rebuild the vehicle;

(3) A fee of one hundred fifty dollars in addition to the fees described in subsection 5 of this section. Such fee shall be deposited in the state treasury to the credit of the state highways and transportation department fund; and

(4) An inspection certificate, other than a motor vehicle examination certificate required under subsection 9 of this section, completed and issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The inspection performed by the highway patrol or other authorized local law enforcement agency shall include a check for stolen vehicles. The department of revenue shall issue the owner a certificate of ownership designated with the words "Reconstructed Motor Vehicle" and deliver such certificate of ownership in accordance with the provisions of this chapter. Notwithstanding subsection 9 of this section, no owner of a reconstructed motor vehicle described in this subsection shall be required to obtain a vehicle examination certificate issued by the Missouri state highway patrol.

**301.213. DEALERS MAY PURCHASE OR ACCEPT IN TRADE VEHICLES SUBJECT TO EXISTING LIENS, WHEN — SALE OF VEHICLES SUBJECT TO LIEN, WHEN — REPLACEMENT**

CERTIFICATE, WHEN — LIABILITY, WHEN — VIOLATION, PENALTY. — 1. Notwithstanding the provisions of sections 301.200 and 301.210, any person licensed as a motor vehicle dealer under sections 301.550 to 301.580 that has provided to the director of revenue a surety bond or irrevocable letter of credit in an amount not less than one hundred thousand dollars in a form which complies with the requirements of section 301.560 and in lieu of the twenty-five thousand dollar bond otherwise required for licensure as a motor vehicle dealer, shall be authorized to purchase or accept in trade any motor vehicle for which there has been issued a certificate of ownership, and to receive such vehicle subject to any existing liens thereon created and perfected under sections 301.600 to 301.660 provided the licensed dealer receives the following:

(1) A signed written contract between the licensed dealer and the owner of the vehicle outlining the terms of the sale or acceptance in trade of such motor vehicle without transfer of the certificate of ownership; and

(2) Physical delivery of the vehicle to the licensed dealer; and

(3) A power of attorney from the owner to the licensed dealer, in accordance with subsection 4 of section 301.300, authorizing the licensed dealer to obtain a duplicate or replacement title in the owner's name and sign any title assignments on the owner's behalf.

2. If the dealer complies with the requirements of subsection 1 of this section, the sale or trade of the vehicle to the dealer shall be considered final, subject to any existing liens created and perfected under sections 301.600 to 301.660. Once the prior owner of the motor vehicle has physically delivered the motor vehicle to the licensed dealer, the prior owners' insurable interest in such vehicle shall cease to exist.

3. If a licensed dealer complies with the requirements of subsection 1 of this section, and such dealer has provided to the director of revenue a surety bond or irrevocable letter of credit in amount not less than one hundred thousand dollars in a form which complies with the requirements of section 301.560 and in lieu of the twenty-five thousand dollar bond otherwise required for licensure as a motor vehicle dealer, such dealer may sell such vehicle prior to receiving and assigning to the purchaser the certificate of ownership, provided such dealer complies with the following:

(1) All outstanding liens created on the vehicle pursuant to sections 301.600 to 301.660 have been paid in full, and the dealer provides a copy of proof or other evidence to the purchaser; and

(2) The dealer has obtained proof or other evidence from the department of revenue confirming that no outstanding child support liens exist upon the vehicle at the time of sale and provides a copy of said proof or other evidence to the purchaser; and

(3) The dealer has obtained proof or other evidence from the department of revenue confirming that all applicable state sales tax has been satisfied on the sale of the vehicle to the previous owner and provides a copy of said proof or other evidence to the purchaser; and

(4) The dealer has signed an application for duplicate or replacement title for the vehicle under subsection 4 of section 301.300 and provides a copy of the application to the purchaser, along with a copy of the power of attorney required by subsection 1 of this section, and the dealer has prepared and delivered to the purchaser an application for title for the vehicle in the purchaser's name; and

(5) The dealer and the purchaser have entered into a written agreement for the subsequent assignment and delivery of such certificate of ownership, on a form prescribed by the director of revenue, to take place at a time, not to exceed sixty calendar days, after the time of delivery of the motor vehicle to the purchaser. Such agreement shall require the purchaser to provide to the dealer proof of financial responsibility in accordance with chapter 303 and proof of comprehensive and collision coverage on the motor vehicle. Such dealer shall maintain the original or an electronic copy of the signed agreement and deliver a copy of the signed agreement to the purchaser. Such dealer shall also complete and deliver to the director of revenue such form as the director shall prescribe

demonstrating that the purchaser has purchased the vehicle without contemporaneous delivery of the title.

Notwithstanding any provision of law to the contrary, completion of the requirements of this subsection shall constitute prima facie evidence of an ownership interest vested in the purchaser of the vehicle for all purposes other than for a subsequent transfer of ownership of the vehicle by the purchaser, subject to the rights of any secured lienholder of record; however, the purchaser may use the dealer-supplied copy of the agreement to transfer his or her ownership of the vehicle to an insurance company in situations where the vehicle has been declared salvage or a total-loss by the insurance company as a result of a settlement of a claim. Such insurance company may apply for a salvage certificate of title or junking certificate pursuant to the provisions of subsection 3 of section 301.193 in order to transfer its interest in such vehicle. The purchaser may also use the dealer-supplied copy of the agreement on the form prescribed by the director of revenue as proof of ownership interest. Any lender or insurance company may rely upon a copy of the signed written agreement on the form prescribed by the director of revenue as proof of ownership interest. Any lien placed upon a vehicle based upon such signed written agreement shall be valid and enforceable, notwithstanding the absence of a certificate of ownership.

4. Following a sale or other transaction in which a certificate of ownership has not been assigned from the owner to the licensed dealer, the dealer shall, within ten business days, apply for a duplicate or replacement certificate of ownership. Upon receipt of a duplicate or replacement certificate of ownership applied for under subsection 4 of section 301.300, the dealer shall assign and deliver said certificate of ownership to the purchaser of the vehicle within five business days. The dealer shall maintain proof of the assignment and delivery of the certificate of ownership to the purchaser. For purposes of this subsection, a dealer shall be deemed to have delivered the certificate of ownership to the purchaser upon either:

(1) Physical delivery of the certificate of ownership to any of the purchasers identified in the contract with such dealer; or

(2) Mailing of the certificate, postage prepaid, return receipt requested, to any of the purchasers at any of their addresses identified in the contract with such dealer.

5. If a licensed dealer fails to comply with subsection 3 of this section, and the purchaser of the vehicle is thereby damaged, then the dealer shall be liable to the purchaser of the vehicle for actual damages, plus court costs and reasonable attorney fees.

6. If a licensed dealer fails or is unable to comply with subsection 4 of this section, and the purchaser of the vehicle is thereby damaged, then the dealer shall be liable to the purchaser of the vehicle for actual damages, plus court costs and reasonable attorney fees. If the dealer cannot be found by the purchaser after making reasonable attempts, or if the dealer fails to assign and deliver the duplicate or replacement certificate of ownership to the purchaser by the date agreed upon by the dealer and the purchaser, as required by subsection 4 of this section, then the purchaser may deliver to the director a copy of the contract for sale of the vehicle, a copy of the application for duplicate title provided by the dealer to the purchaser, a copy of the secure power of attorney allowing the dealer to assign the duplicate title, and the proof or other evidence obtained by the purchaser from the dealer under subsection 3 of this section. Thereafter, the director shall mail by certified mail, return receipt requested, a notice to the dealer at the last address given to the department by that dealer. That notice shall inform the dealer that the director intends to cancel any prior certificate of title which may have been issued to the dealer on the vehicle and issue to the purchaser a certificate of title in the name of the purchaser, subject to any liens incurred by the purchaser in connection with the purchase of the vehicle, unless the dealer, within ten business days from the date of the director's notice, files with the director a written objection to the director taking such action. If the dealer

does file a timely, written objection with the director, then the director shall not take any further action without an order from a court of competent jurisdiction. However, if the dealer does not file a timely, written objection with the director, then the director shall cancel the prior certificate of title issued to the dealer on the vehicle and issue a certificate of title to the purchaser of the vehicle, subject to any liens incurred by the purchaser in connection with the purchase of the vehicle and subject to the purchaser satisfying all applicable taxes and fees associated with registering the vehicle.

7. If a seller misrepresents to a dealer that the seller is the owner of a vehicle and the dealer, the owner, any subsequent purchaser, or any prior or subsequent lienholder is thereby damaged, then the seller shall be liable to each such party for actual and punitive damages, plus court costs and reasonable attorney fees.

8. When a lienholder is damaged as a result of a licensed dealer's acts, errors, omissions, or violations of this section, then the dealer shall be liable to the lienholder for actual damages, plus court costs and reasonable attorney fees.

9. No court costs or attorney fees shall be awarded under this section unless, prior to filing any such action, the following conditions have been met:

- (1) The aggrieved party seeking damages has delivered an itemized written demand of the party's actual damages to the party from whom damages are sought; and
- (2) The party from whom damages are sought has not satisfied the written demand within thirty days after receipt of the written demand.

10. The department of revenue may use a dealer's repeated or intentional violation of this section as a cause to suspend, revoke, or refuse to issue or renew any license required pursuant to sections 301.550 to 301.580, in addition to the causes set forth in section 301.562. The hearing process shall be the same as that established in subsection 6 of section 301.562.

**301.562. LICENSE SUSPENSION, REVOCATION, REFUSAL TO RENEW — PROCEDURE — GROUNDS — COMPLAINT MAY BE FILED, WHEN — CLEAR AND PRESENT DANGER, WHAT CONSTITUTES, REVOCATION OR SUSPENSION AUTHORIZED, PROCEDURE — AGREEMENT PERMITTED, WHEN. —** 1. The department may refuse to issue or renew any license required pursuant to sections 301.550 to [301.573] **301.580** for any one or any combination of causes stated in subsection 2 of this section. The department shall notify the applicant or licensee in writing at his or her last known address of the reasons for the refusal to issue or renew the license and shall advise the applicant or licensee of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any license issued under sections 301.550 to [301.573] **301.580** for any one or any combination of the following causes:

(1) The applicant or license holder was previously the holder of a license issued under sections 301.550 to [301.573] **301.580**, which license was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of suspension have not been fulfilled;

(2) The applicant or license holder was previously a partner, stockholder, director or officer controlling or managing a partnership or corporation whose license issued under sections 301.550 to [301.573] **301.580** was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled;

(3) The applicant or license holder has, within ten years prior to the date of the application, been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of any business licensed under sections 301.550 to [301.573] **301.580**; for any offense, an essential element of which is fraud, dishonesty, or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(4) Use of fraud, deception, misrepresentation, or bribery in securing any license issued pursuant to sections 301.550 to [301.573] **301.580**;

(5) Obtaining or attempting to obtain any money, commission, fee, barter, exchange, or other compensation by fraud, deception, or misrepresentation;

(6) Violation of, or assisting or enabling any person to violate any provisions of this chapter and chapters 143, 144, 306, 307, 407, 578, and 643 or of any lawful rule or regulation adopted pursuant to this chapter and chapters 143, 144, 306, 307, 407, 578, and 643;

(7) The applicant or license holder has filed an application for a license which, as of its effective date, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(8) The applicant or license holder has failed to pay the proper application or license fee or other fees required pursuant to this chapter or chapter 306 or fails to establish or maintain a bona fide place of business;

(9) Uses or permits the use of any special license or license plate assigned to the license holder for any purpose other than those permitted by law;

(10) The applicant or license holder is finally adjudged insane or incompetent by a court of competent jurisdiction;

(11) Use of any advertisement or solicitation which is false;

(12) Violations of sections 407.511 to 407.556, section 578.120, which resulted in a conviction or finding of guilt or violation of any federal motor vehicle laws which result in a conviction or finding of guilt.

3. Any such complaint shall be filed within one year of the date upon which the department receives notice of an alleged violation of an applicable statute or regulation. After the filing of such complaint, the proceedings shall, except for the matters set forth in subsection 5 of this section, be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the department may, singly or in combination, refuse to issue the person a license, issue a license for a period of less than two years, issue a private reprimand, place the person on probation on such terms and conditions as the department deems appropriate for a period of one day to five years, suspend the person's license from one day to six days, or revoke the person's license for such period as the department deems appropriate. The applicant or licensee shall have the right to appeal the decision of the administrative hearing commission and department in the manner provided in chapter 536.

4. Upon the suspension or revocation of any person's license issued under sections 301.550 to [301.573] **301.580**, the department shall recall any distinctive number plates that were issued to that licensee. If any licensee who has been suspended or revoked shall neglect or refuse to surrender his or her license or distinctive number license plates issued under sections 301.550 to 301.580, the director shall direct any agent or employee of the department or any law enforcement officer, to secure possession thereof and return such items to the director. For purposes of this subsection, a "law enforcement officer" means any member of the highway patrol, any sheriff or deputy sheriff, or any peace officer certified under chapter 590 acting in his or her official capacity. Failure of the licensee to surrender his or her license or distinctive number license plates upon demand by the director, any agent or employee of the department, or any law enforcement officer shall be a class A misdemeanor.

5. Notwithstanding the foregoing provisions of this section, the following events or acts by the holder of any license issued under sections 301.550 to 301.580 are deemed to present a clear and present danger to the public welfare and shall be considered cause for suspension or revocation of such license under the procedure set forth in subsection 6 of this section, at the discretion of the director:

(1) The expiration or revocation of any corporate surety bond or irrevocable letter of credit, as required by section 301.560, without submission of a replacement bond or letter of credit which provides coverage for the entire period of licensure;

(2) The failure to maintain a bona fide established place of business as required by section 301.560;

(3) Criminal convictions as set forth in subdivision (3) of subsection 2 of this section; or

(4) Three or more occurrences of violations which have been established following proceedings before the administrative hearing commission under subsection 3 of this section, or which have been established following proceedings before the director under subsection 6 of this section, of this chapter and chapters 143, 144, 306, 307, 578, and 643 or of any lawful rule or regulation adopted under this chapter and chapters 143, 144, 306, 307, 578, and 643, not previously set forth herein.

6. (1) Any license issued under sections 301.550 to 301.580 shall be suspended or revoked, following an evidentiary hearing before the director or his or her designated hearing officer, if affidavits or sworn testimony by an authorized agent of the department alleges the occurrence of any of the events or acts described in subsection 5 of this section.

(2) For any license which the department believes may be subject to suspension or revocation under this subsection, the director shall immediately issue a notice of hearing to the licensee of record. The director's notice of hearing:

(a) Shall be served upon the licensee personally or by first class mail to the dealer's last known address, as registered with the director;

(b) Shall be based on affidavits or sworn testimony presented to the director, and shall notify the licensee that such information presented therein constitutes cause to suspend or revoke the licensee's license;

(c) Shall provide the licensee with a minimum of ten days' notice prior to hearing;

(d) Shall specify the events or acts which may provide cause for suspension or revocation of the license, and shall include with the notice a copy of all affidavits, sworn testimony or other information presented to the director which support discipline of the license; and

(e) Shall inform the licensee that he or she has the right to attend the hearing and present any evidence in his or her defense, including evidence to show that the event or act which may result in suspension or revocation has been corrected to the director's satisfaction, and that he or she may be represented by counsel at the hearing.

(3) At any hearing before the director conducted under this subsection, the director or his or her designated hearing officer shall consider all evidence relevant to the issue of whether the license should be suspended or revoked due to the occurrence of any of the acts set forth in subsection 5 herein. Within twenty business days after such hearing, the director or his or her designated hearing officer shall issue a written order, with findings of fact and conclusions of law, which either grants or denies the issuance of an order of suspension or revocation. The suspension or revocation shall be effective ten days after the date of the order. The written order of the director or his or her hearing officer shall be the final decision of the director and shall be subject to judicial review under the provisions of chapter 536.

(4) Notwithstanding the provisions of this chapter or chapter 610 or 621 to the contrary, the proceedings under this section shall be closed and no order shall be made public until it is final, for purposes of appeal.

**7. In lieu of acting under subsection 2 or subsection 6 of this section, the department of revenue may enter into an agreement with the holder of the license to ensure future compliance with sections 301.210, 301.213, 307.380, sections 301.217 to 301.229, and sections 301.550 to 301.580. Such agreement may include an assessment fee not to exceed five hundred dollars per violation or five thousand dollars in the aggregate unless otherwise permitted by law, probation terms and conditions, and other requirements as may be deemed appropriate by the department of revenue and the holder of the license. Any fees collected by the department of revenue under this subsection shall be deposited into the motor vehicle commission fund created in section 301.560.**

**301.644. ELECTRONIC SIGNATURE PERMITTED, WHEN. — 1. In cases where an insurance company has paid or is paying a total loss claim on a motor vehicle or trailer,**

the registered owner or owners of a motor vehicle or trailer may use an electronic signature in a similar form as that prescribed in sections 432.200 to 432.295 on a limited power of attorney, affidavit, or other documents to authorize the insurance company to assign ownership of such motor vehicle or trailer. A power of attorney, affidavit, or other similar document executed with an electronic signature for the authority to execute the assignment of a certificate of ownership by an insurance company under the authority of this section shall not require notarization.

2. The director of the department of revenue may promulgate rules and regulations to implement and administer 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, 2015, shall be invalid and void.

**[407.581. PURCHASE OR TRADE OF MOTOR VEHICLES WITH CERTIFICATES OF TITLE, REQUIREMENTS—RESALE OF SUCH VEHICLES, REQUIREMENTS—DEALER LIABILITY, WHEN — SELLER MISREPRESENTATION, LIABILITY. — 1.** Notwithstanding the provisions of sections 301.200 and 301.210, any person licensed as a motor vehicle dealer under sections 301.550 to 301.573 shall be authorized to purchase or accept in trade any motor vehicle for which there has been issued a certificate of title, and to receive such vehicle subject to any existing liens thereon created and perfected under sections 301.600 to 301.660 provided the licensed dealer receives the following:

(1) A signed written contract between the licensed dealer and the owner of the vehicle; and

(2) Physical delivery of the vehicle to the licensed dealer; and

(3) A power of attorney from the owner to the licensed dealer, in accordance with subsection 4 of section 301.300, authorizing the licensed dealer to obtain a duplicate or replacement title in the owner's name and sign any title assignments on the owner's behalf.

2. If the dealer complies with the requirements of subsection 1 of this section, the sale or trade of the vehicle to the dealer shall be considered final.

3. If a licensed dealer complies with the requirements of subsection 1 of this section, the licensed dealer may sell such vehicle prior to receiving and assigning to the purchaser the certificate of title, provided such dealer complies with the following:

(1) All outstanding liens created on the vehicle pursuant to sections 301.600 to 301.660 have been paid in full, and the dealer provides a copy of proof or other evidence to the purchaser; and

(2) The dealer has obtained proof or other evidence from the department of revenue confirming that no outstanding child support liens exist upon the vehicle at the time of sale and provides a copy of said proof or other evidence to the purchaser; and

(3) The dealer has obtained proof or other evidence from the department of revenue confirming that all applicable state sales tax has been satisfied on the sale of the vehicle to the previous owner and provides a copy of said proof or other evidence to the purchaser; and

(4) The dealer has signed and submitted an application for duplicate or replacement title for the vehicle pursuant to subsection 4 of section 301.300 and provides a copy of the application to the purchaser, along with a copy of the power of attorney required under subsection 1 of this section.

4. Following a sale or other transaction in which a certificate of title has not been assigned from the owner to the dealer, a licensed dealer shall, within five business days, apply for a duplicate or replacement title. Upon receipt of a duplicate or replacement title applied for pursuant to subsection 4 of section 301.300, the dealer shall assign and deliver said certificate of title to the purchaser of the vehicle within five business days. The dealer shall maintain proof of the assignment and delivery of the certificate of title to the purchaser. For purposes of this subsection, a dealer shall be deemed to have delivered the certificate of title to the purchaser upon either:

(1) Physical delivery of the certificate of title to any of the purchasers identified in the contract with the dealer; or

(2) Mailing of the certificate, postage prepaid, return receipt requested, to any of the purchasers at any of their addresses identified in the contract with the dealer.

5. If a dealer fails to comply with subsection 3 of this section, and the purchaser of the vehicle is thereby damaged, then the dealer shall be liable to the purchaser of the vehicle for actual damages, plus court costs and reasonable attorney fees.

6. If a dealer fails to comply with subsection 4 of this section, and the purchaser of the vehicle is thereby damaged, then the dealer shall be liable to the purchaser of the vehicle for actual damages, plus court costs and reasonable attorney fees. If the dealer cannot be found by the purchaser after making reasonable attempts, and thereby fails to assign and deliver the duplicate or replacement certificate of title to the purchaser, as required by subsection 4 of this section, then the purchaser may deliver to the director a copy of the contract for sale of the vehicle, a copy of the application for duplicate title provided by the dealer to the purchaser, a copy of the secure power of attorney allowing the dealer to assign the duplicate title, and the proof or other evidence obtained by the purchaser from the dealer under subsection 3 of this section. Thereafter, the director shall mail by certified mail, return receipt requested, a notice to the dealer at the last address given to the department by that dealer. That notice shall inform the dealer that the director intends to cancel any prior certificate of title issued to the dealer on the vehicle and issue to the purchaser a certificate of title in the name of the purchaser, subject to any liens incurred by the purchaser in connection with the purchase of the vehicle, unless the dealer, within ten business days from the date of the director's notice, files with the director a written objection to the director taking such action. If the dealer does file a timely, written objection with the director, then the director shall not take any further action without an order from a court of competent jurisdiction. However, if the dealer does not file a timely, written objection with the director, then the director shall cancel the prior certificate of title issued to the dealer on the vehicle and issue a certificate of title to the purchaser of the vehicle, subject to any liens incurred by the purchaser in connection with the purchase of the vehicle and subject to the purchaser satisfying all applicable taxes and fees associated with registering the vehicle.

7. If a seller fraudulently misrepresents to a dealer that the seller is the owner of a vehicle and the dealer or any subsequent purchaser is thereby damaged, then the seller shall be liable to the dealer and any subsequent purchaser for actual damages, plus court costs and reasonable attorney fees.

8. When a lienholder is damaged as a result of acts or omissions by the dealer to the lienholder or any party covered by subsections 5, 6, and 7 of this section, or by any combination of claims under this subsection, then the dealer shall be liable to the lienholder for actual damages, plus court costs and reasonable attorney fees.

9. No court costs or attorney fees shall be awarded under this section unless, prior to filing any such action, the following conditions have been met:

(1) The aggrieved party seeking damages has delivered an itemized written demand of the party's actual damages to the party from whom damages are sought; and

(2) The party from whom damages are sought has not satisfied the written demand within thirty days after receipt of the written demand.]

Approved July 13, 2015

SB 463 [SB 463]

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

**Extends the sunset on the Residential Treatment Agency Tax Credit and the Developmental Disability Care Provider Tax Credit to 2027**

AN ACT to repeal sections 135.1150 and 135.1180, RSMo, and to enact in lieu thereof two new sections relating to benevolent tax credits.

SECTION

A. Enacting clause.

135.1150. Citation of law — definitions — tax credit, amount — claim application — limitation — transferability of credit — rulemaking authority.

135.1180. Citation of law — definitions — tax credit, amount, procedure — rulemaking authority.

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

**SECTION A. ENACTING CLAUSE.** — Sections 135.1150 and 135.1180, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 135.1150 and 135.1180, to read as follows:

**135.1150. CITATION OF LAW — DEFINITIONS — TAX CREDIT, AMOUNT — CLAIM APPLICATION — LIMITATION — TRANSFERABILITY OF CREDIT — RULEMAKING AUTHORITY.** — 1. This section shall be known and may be cited as the "Residential Treatment Agency Tax Credit Act".

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

(1) "Certificate", a tax credit certificate issued under this section;

(2) "Department", the Missouri department of social services;

(3) "Eligible donation", donations received from a taxpayer by an agency that are used solely to provide direct care services to children who are residents of this state. Eligible donations may include cash, publicly traded stocks and bonds, and real estate that will be valued and documented according to rules promulgated by the department of social services. For purposes of this section, "direct care services" include but are not limited to increasing the quality of care and service for children through improved employee compensation and training;

(4) "Qualified residential treatment agency" or "agency", a residential care facility that is licensed under section 210.484, accredited by the Council on Accreditation (COA), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or the Commission on Accreditation of Rehabilitation Facilities (CARF), and is under contract with the Missouri department of social services to provide treatment services for children who are residents or wards of residents of this state, and that receives eligible donations. Any agency that operates more than one facility or at more than one location shall be eligible for the tax credit under this section only for any eligible donation made to facilities or locations of the agency which are licensed and accredited;

(5) "Taxpayer", any of the following individuals or entities who make an eligible donation to an agency:

- (a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed in chapter 143;
- (b) A corporation subject to the annual corporation franchise tax imposed in chapter 147;
- (c) An insurance company paying an annual tax on its gross premium receipts in this state;
- (d) Any other financial institution paying taxes to the state of Missouri or any political subdivision of this state under chapter 148;
- (e) An individual subject to the state income tax imposed in chapter 143;
- (f) Any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

3. For all taxable years beginning on or after January 1, 2007, any taxpayer shall be allowed a credit against the taxes otherwise due under chapter [147, 148, or] 143, **147, or 148**, excluding withholding tax imposed by sections 143.191 to 143.265, in an amount equal to fifty percent of the amount of an eligible donation, subject to the restrictions in this section. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state income tax liability in the tax year for which the credit is claimed. Any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may be carried forward to any of the taxpayer's four subsequent taxable years.

4. To claim the credit authorized in this section, an agency may submit to the department an application for the tax credit authorized by this section on behalf of taxpayers. The department shall verify that the agency has submitted the following items accurately and completely:

- (1) A valid application in the form and format required by the department;
- (2) A statement attesting to the eligible donation received, which shall include the name and taxpayer identification number of the individual making the eligible donation, the amount of the eligible donation, and the date the eligible donation was received by the agency; and
- (3) Payment from the agency equal to the value of the tax credit for which application is made. If the agency applying for the tax credit meets all criteria required by this subsection, the department shall issue a certificate in the appropriate amount.

5. An agency may apply for tax credits in an aggregate amount that does not exceed the payments made by the department to the agency in the preceding twelve months.

6. Tax credits issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit shall have the same rights in the credit as the taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit or the value of the credit.

7. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, 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, 2006, shall be invalid and void.

[8. Under section 23.253 of the Missouri sunset act:

- (1) The program authorized under this section shall expire on December 31, 2015; and
- (2) This section shall terminate on September 1, 2016.]

**135.1180. CITATION OF LAW — DEFINITIONS — TAX CREDIT, AMOUNT, PROCEDURE — RULEMAKING AUTHORITY.** — 1. This section shall be known and may be cited as the "Developmental Disability Care Provider Tax Credit Program".

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

(1) "Certificate", a tax credit certificate issued under this section;

(2) "Department", the Missouri department of social services;

(3) "Eligible donation", donations received by a provider from a taxpayer that are used solely to provide direct care services to persons with developmental disabilities who are residents of this state. Eligible donations may include cash, publicly traded stocks and bonds, and real estate that will be valued and documented according to rules promulgated by the department of social services. For purposes of this section, "direct care services" include, but are not limited to, increasing the quality of care and service for persons with developmental disabilities through improved employee compensation and training;

(4) "Qualified developmental disability care provider" or "provider", a care provider that provides assistance to persons with developmental disabilities, and is accredited by the Council on Accreditation (COA), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or the Commission on Accreditation of Rehabilitation Facilities (CARF), or is under contract with the Missouri department of social services or department of mental health to provide treatment services for such persons, and that receives eligible donations. Any provider that operates more than one facility or at more than one location shall be eligible for the tax credit under this section only for any eligible donation made to facilities or locations of the provider which are licensed or accredited;

(5) "Taxpayer", any of the following individuals or entities who make an eligible donation to a provider:

(a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed in chapter 143;

(b) A corporation subject to the annual corporation franchise tax imposed in chapter 147;

(c) An insurance company paying an annual tax on its gross premium receipts in this state;

(d) Any other financial institution paying taxes to the state of Missouri or any political subdivision of this state under chapter 148;

(e) An individual subject to the state income tax imposed in chapter 143;

(f) Any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

3. For all taxable years beginning on or after January 1, 2012, any taxpayer shall be allowed a credit against the taxes otherwise due under chapter 143, 147, or 148 excluding withholding tax imposed by sections 143.191 to 143.265 in an amount equal to fifty percent of the amount of an eligible donation, subject to the restrictions in this section. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state income tax liability in the tax year for which the credit is claimed. Any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may be carried forward to any of the taxpayer's four subsequent taxable years.

4. To claim the credit authorized in this section, a provider may submit to the department an application for the tax credit authorized by this section on behalf of taxpayers. The department shall verify that the provider has submitted the following items accurately and completely:

(1) A valid application in the form and format required by the department;

(2) A statement attesting to the eligible donation received, which shall include the name and taxpayer identification number of the individual making the eligible donation, the amount of the eligible donation, and the date the eligible donation was received by the provider; and

(3) Payment from the provider equal to the value of the tax credit for which application is made. If the provider applying for the tax credit meets all criteria required by this subsection, the department shall issue a certificate in the appropriate amount.

5. Tax credits issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit shall have the same rights in the credit as the taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a

notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit or the value of the credit.

6. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, 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, 2012, shall be invalid and void.

[7. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December 31, 2016, unless reauthorized by an act of the general assembly; and

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

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

Approved July 2, 2015

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SB 474 [SB 474]

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

**Expands the Heroes Way Interchange Designation Program**

AN ACT to repeal section 227.297, RSMo, and to enact in lieu thereof one new section relating to the heroes way designation program.

SECTION

A. Enacting clause.

227.297. Heroes Way designation program established — signage — application procedure — joint committee to review applications.

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

**SECTION A. ENACTING CLAUSE.** — Section 227.297, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 227.297, to read as follows:

**227.297. HEROES WAY DESIGNATION PROGRAM ESTABLISHED — SIGNAGE — APPLICATION PROCEDURE — JOINT COMMITTEE TO REVIEW APPLICATIONS.** — 1. This section establishes [an interchange] a designation program, to be known as the "Heroes Way [Interchange] Designation Program", to honor the fallen Missouri heroes who have been killed in action while performing active military duty with the Armed Forces [in Afghanistan or Iraq on or after September 11, 2001]. The signs shall be placed upon interstate or state-numbered highway interchanges **or upon bridges or segments of highway on the state highway system** in accordance with this section, and any applicable federal and state limitations or conditions on highway signage, including location and spacing.

2. Any person who is related by marriage, adoption, or consanguinity within the second degree to a member of the United States Armed Forces who was killed in action while

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performing active military duty with the Armed Forces [in Afghanistan or Iraq on or after September 11, 2001], and who was a resident of this state at the time he or she was killed in action, may apply for [an interchange] a designation under the provisions of this section.

3. Any person described under subsection 2 of this section who desires to have an interstate or state numbered highway interchange **or bridge or segment of highway on the state highway system** designated after his or her family member shall petition the department of transportation by submitting the following:

(1) An application in a form prescribed by the director, describing the interstate or state numbered highway interchange **or bridge or segment of highway on the state highway system** for which the designation is sought and the proposed name of the interchange, **bridge or relevant segment of highway**. The application shall include the name of at least one current member of the general assembly who will sponsor the [interchange] designation. The application may contain written testimony for support of the [interchange] designation;

(2) Proof that the family member killed in action was a member of the United States Armed Forces and proof that such family member was in fact killed in action while performing active military duty with the United States Armed Forces [in Afghanistan or Iraq on or after September 11, 2001]. Acceptable proof shall be a statement from the Missouri veterans commission or the United States Department of Veterans Affairs so certifying such facts;

(3) By signing a form provided by the Missouri transportation department, the applicant shall certify that the applicant is related by marriage, adoption, or consanguinity within the second degree to the member of the United States Armed Forces who was killed in action; and

(4) A fee to be determined by the commission to cover the costs of constructing and maintaining the proposed interchange, **bridge, or highway** signs. The fee shall not exceed the cost of constructing and maintaining each sign.

4. All moneys received by the department of transportation for the construction and maintenance of interchange, **bridge, or highway** signs shall be deposited in the state treasury to the credit of the state road fund.

5. The documents and fees required under this section shall be submitted to the department of transportation.

6. The department of transportation shall submit for approval or disapproval all applications for [interchange] designations to the joint committee on transportation oversight. The joint committee on transportation oversight may review such applications at any scheduled meeting convened pursuant to section 21.795. If satisfied with the application and all its contents, the committee shall approve the application. The committee shall notify the department of transportation upon the approval or denial of an application for [an interchange] a designation.

7. The department of transportation shall give notice of any proposed [interchange] designation under this section in a manner reasonably calculated to advise the public of such proposal. Reasonable notice shall include posting the proposal for the designation on the department's official public website and making available copies of the sign designation application to any representative of the news media or public upon request and posting the application on a bulletin board or other prominent public place which is easily accessible to the public and clearly designated for that purpose at the principal office.

8. If the memorial [interchange] designation request is not approved by the joint committee on transportation oversight, ninety-seven percent of the application fee shall be refunded to the applicant.

9. Two signs shall be erected for each interchange, **bridge, or highway** designation processed under this section.

10. No interchange, **bridge, or highway** may be named or designated after more than one member of the United States Armed Forces killed in action. Such person shall only be eligible for one interchange, **bridge, or highway** designation under the provisions of this section.

11. Any highway signs erected for any [interchange] designation under the provisions of this section shall be erected and maintained for a twenty-year period. After such period, the signs

shall be subject to removal by the department of transportation and the interchange, **bridge, or highway** may be designated to honor persons other than the current designee. An existing [interchange] designation processed under the provisions of this section may be retained for additional twenty-year increments if, at least one year before the designation's expiration, an application to the department of transportation is made to retain the designation along with the required documents and all applicable fees required under this section.

Approved June 25, 2015

SB 497 [SB 497]

**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 special purpose districts**

AN ACT to repeal sections 67.950, 67.955, 393.015, and 644.145, RSMo, and to enact in lieu thereof five new sections relating to special purpose districts.

SECTION

- A. Enacting clause.
- 67.950. Dissolution of certain special purpose districts — procedure for election, form of ballot.
- 67.955. Procedure for dissolution — bonded indebtedness, effect of.
- 393.015. Sewer company may contract with water company to terminate water services for nonpayment of sewer bill — procedure — immunity — costs, reimbursement.
- 644.145. Affordability finding required, when — definitions — procedures to be adopted — appeal of determination — annual report, contents.
  - 1. Election of board of directors, no person to cast more than one ballot.

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

**SECTION A. ENACTING CLAUSE.** — Sections 67.950, 67.955, 393.015, and 644.145, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 67.950, 67.955, 393.015, 644.145, and 1, to read as follows:

**67.950. DISSOLUTION OF CERTAIN SPECIAL PURPOSE DISTRICTS — PROCEDURE FOR ELECTION, FORM OF BALLOT.** — **1.** Any special purpose district formed under the provisions of a statute of this state requiring approval by the voters of the district, and for which no specific procedure is provided to terminate or dissolve such a district, may be dissolved [in the following manner:

(1) Upon the filing with the governing body of the district of a petition containing the signatures of eight percent or more of the voters of the district or upon the motion of a majority of the members of the governing body it shall submit the question to the voters in the district using the same procedure and in the same manner so far as practicable as is provided for the submission of the question for forming the district.

(2)] **as provided in this section and section 67.955.**

**2.** A petition describing the boundaries of the district sought to be dissolved shall be filed with the clerk of the circuit court of the county in which the subject district is located or, if the subject district embraces lands in more than one county, with the clerk of the circuit court of the county having the largest acreage within the boundaries of the subject district. Such petition, in addition to such boundary description, shall allege that further operation of the subject district is inimical to the best interests of the inhabitants of the district and that the district should, in the interest of the public welfare and safety, be

dissolved, and such other information as may be useful to the court in determining whether the petition should be granted and a decree of dissolution entered. Such petition shall also include a detailed plan for payment of all debt and obligations of the district at the time of dissolution. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by eight percent or more of the voters of the district. The petition shall be verified by at least one of the signers thereof and shall be served upon the governing board of the district. The district shall be a party, and if the governing board in its discretion determines that such dissolution is not in the public interest, the district shall oppose such petition and pay all cost and expense thereof.

3. Upon the filing of the petition, the petition shall be presented to the circuit court and such court shall fix a date for a hearing on such petition. The clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the subject boundary lines of the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than seven nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court in which the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in twenty successive issues of a daily newspaper.

4. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

5. Exceptions to the dissolution of a district may be made by any voter or landowner of the district, and by the district as provided in this section. Such exceptions shall be filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are filed, and the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. Unless petitioners prove that all debts and financial obligations of the district can be paid in full upon dissolution, the petition shall be dismissed at the cost of the petitioners.

6. Should the court find that it would not be to the public interest to dissolve a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the petitioners, the court shall enter its interlocutory decree of dissolution, which decree shall provide for the submission of the question to the voters of the district. The decree of dissolution shall not become final and conclusive until it has been submitted to the voters residing within the boundaries described in such decree and approved by a majority of the votes cast. The decree shall provide for the submission of the question and shall fix the date thereof.

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

Shall the ..... district be dissolved?

[(3) If the question receives a majority of the votes cast the district shall be dissolved for all purposes except the payment of outstanding bonded indebtedness, if any]

8. The returns shall be certified by the election authority to the circuit court having jurisdiction in the case. Upon receiving such certification, the court shall enter its order canvassing the returns and declaring the result of such election. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of dissolution to be final and conclusive. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the court shall enter a further order declaring such decree of dissolution to be void and

of no effect. No appeal shall lie from any of such orders. In the event that the court declares the decree of dissolution to be final as provided in this subsection, the clerk of the circuit court shall file certified copies of such decree of dissolution and of such final order with the secretary of state, the recorder of deeds of the county or counties in which the district is located, and with the clerk of the county commission of the county or counties in which the district is located.

9. Notwithstanding any other provision of law in this section to the contrary, no district shall be dissolved until all of its outstanding indebtedness has been paid, and the court in its decree of dissolution shall provide for the disposition of the remaining property of the district.

**67.955. PROCEDURE FOR DISSOLUTION — BONDED INDEBTEDNESS, EFFECT OF. —** Subject to any decree of dissolution entered under section 67.950, the governing body, upon passage of a proposition to dissolve, shall dispose of all assets of the district and apply all proceeds to the payment of all indebtedness of the district and if any funds are left after such liquidation they shall be paid to the taxpayers of the district. Such payments shall be computed on the ratio of each taxpayer's tax paid in to the total tax collected for the last taxable year for which the district collected taxes. The liquidation, payments and refunds shall be completed within one hundred twenty days after the date of the submission of the question, and the district shall cease to exist; except that if general obligation bonded indebtedness exists the district shall continue to exist solely for the purpose of levying and collecting taxes to pay such indebtedness.

**393.015. SEWER COMPANY MAY CONTRACT WITH WATER COMPANY TO TERMINATE WATER SERVICES FOR NONPAYMENT OF SEWER BILL — PROCEDURE — IMMUNITY — COSTS, REIMBURSEMENT. —** 1. Notwithstanding any other provision of law to the contrary, any sewer corporation, municipality or sewer district established under the provisions of chapter 249 or 250, or sections 204.250 to 204.470, or any sewer district created and organized pursuant to constitutional authority, may contract with any water corporation, **any municipality providing water, or any water districts established under chapter 247, which for purposes of this section shall collectively be designated as a water provider**, to terminate water services to any customer premises for nonpayment of a sewer bill. No such termination of water service may occur until thirty days after the sewer corporation, municipality or statutory sewer district or sewer district created and organized pursuant to constitutional authority sends a written notice to the customer, except that if the water [corporation] **provider** is performing a combined water and sewer billing service for the sewer corporation, municipality or sewer district, no additional notice or any additional waiting period shall be required other than the notice and waiting period already used by the water [corporation] **provider** to disconnect water service for nonpayment of the water bill. Acting pursuant to a contract, the water [corporation] **provider** shall discontinue water service until such time as the sewer charges and all related costs of termination and reestablishment of sewer and water services are paid by the customer.

2. A water [corporation] **provider** acting pursuant to a contract with a sewer corporation, municipality or sewer district as provided in subsection 1 of this section shall not be liable for damages related to termination of water services unless such damage is caused by the negligence of such water [corporation] **provider**, in which case the water [corporation] **provider** shall be indemnified by the sewer corporation, municipality or sewer district. Unless otherwise specified in the contract, all costs related to the termination and reestablishment of services by the water [corporation] **provider** shall be reimbursed by the sewer corporation, municipality, sewer district or sewer district created and organized pursuant to constitutional authority.

**644.145. AFFORDABILITY FINDING REQUIRED, WHEN — DEFINITIONS — PROCEDURES TO BE ADOPTED — APPEAL OF DETERMINATION — ANNUAL REPORT, CONTENTS. —** 1. When issuing permits under this chapter that incorporate a new requirement for discharges from

publicly owned combined or separate sanitary or storm sewer systems or **water or sewer** treatment works, or when enforcing provisions of this chapter or the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, et seq., pertaining to any portion of a publicly owned combined or separate sanitary or storm sewer system or **water or sewer** treatment works, the department of natural resources shall make a finding of affordability on the costs to be incurred and the impact of any rate changes on ratepayers upon which to base such permits and decisions, to the extent allowable under this chapter and the Federal Water Pollution Control Act.

2. (1) The department of natural resources shall not be required under this section to make a finding of affordability when:

- (a) Issuing collection system extension permits;
- (b) Issuing National Pollution Discharge Elimination System operating permit renewals which include no new environmental requirements; or
- (c) The permit applicant certifies that the applicable requirements are affordable to implement or otherwise waives the requirement for an affordability finding; however, at no time shall the department require that any applicant certify, as a condition to approving any permit, administrative or civil action, that a requirement, condition, or penalty is affordable.

(2) The exceptions provided under paragraph (c) of subdivision (1) of this subsection do not apply when the community being served has less than three thousand three hundred residents.

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

(1) "Affordability", with respect to payment of a utility bill, a measure of whether an individual customer or household with an income equal to [the] **or lower [of] than** the median household income for their community [or the state of Missouri] can pay the bill without undue hardship or unreasonable sacrifice in the essential lifestyle or spending patterns of the individual or household, taking into consideration the criteria described in subsection 4 of this section;

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

(3) "Finding of affordability", a department statement as to whether an individual or a household receiving as income an amount equal to [the] **or lower [of] than** the median household income for the applicant community [or the state of Missouri] would be required to make unreasonable sacrifices in [their] **the individual's or the household's** essential lifestyle or spending patterns or undergo hardships in order to make the projected monthly payments for sewer services. The department shall make a statement that the proposed changes meet the definition of affordable, or fail to meet the definition of affordable, or are implemented as a federal mandate regardless of affordability.

4. The department of natural resources shall adopt procedures by which it will make affordability findings that evaluate the affordability of permit requirements and enforcement actions described in subsection 1 of this section, and may begin implementing such procedures prior to promulgating implementing regulations. The commission shall have the authority to promulgate rules to implement this section pursuant to chapters 536 and 644, and shall promulgate such rules as soon as practicable. Affordability findings shall be based upon reasonably verifiable data and shall include an assessment of affordability with respect to persons or entities affected. The department shall offer the permittee an opportunity to review a draft affordability finding, and the permittee may suggest changes and provide additional supporting information, subject to subsection 6 of this section. The finding shall be based upon the following criteria:

- (1) A community's financial capability and ability to raise or secure necessary funding;
  - (2) Affordability of pollution control options for the individuals or households at or below the median household income level of the community;
  - (3) An evaluation of the overall costs and environmental benefits of the control technologies;
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(4) Inclusion of ongoing costs of operating and maintaining the existing wastewater collection and treatment system, including payments on outstanding debts for wastewater collection and treatment systems when calculating projected rates;

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

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

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

(6) An assessment of other community investments and operating costs relating to environmental improvements and public health protection;

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

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

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

6. Reasonable time spent preparing draft affordability findings, allowing permittees to review draft affordability findings or draft permits, or revising draft affordability findings, shall be allowed in addition to the department's deadlines for making permitting decisions pursuant to section 644.051.

7. If the department of natural resources fails to make a finding of affordability where required by this section, then the resulting permit or decision shall be null, void and unenforceable.

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

9. The department shall file an annual report by the beginning of the fiscal year with the governor, the speaker of the house of representatives, the president pro tempore of the senate, and the chairs of the committees in both houses having primary jurisdiction over natural resource issues showing at least the following information on the findings of affordability completed in the previous calendar year:

(1) The total number of findings of affordability issued by the department, those categorized as affordable, those categorized as not meeting the definition of affordable, and those implemented as a federal mandate regardless of affordability;

(2) The average increase in sewer rates both in dollars and percentage for all findings found to be affordable;

(3) The average increase in sewer rates as a percentage of median house income in the communities for those findings determined to be affordable and a separate calculation of average increases in sewer rates for those found not to meet the definition of affordable;

(4) A list of all the permit holders receiving findings, and for each permittee the following data taken from the finding of affordability shall be listed:

(a) Current and projected monthly residential sewer rates in dollars;

(b) Projected monthly residential sewer rates as a percentage of median [house] **household** income;

(c) Percentage of households at or below the state poverty rate.

**SECTION 1. ELECTION OF BOARD OF DIRECTORS, NO PERSON TO CAST MORE THAN ONE BALLOT.** — In any election for the board of directors of a community improvement district as established in sections 67.1401 to 67.1571, no person shall cast more than one ballot.

Approved July 10, 2015

SB 500 [SB 500]

**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 honey**

AN ACT to repeal section 261.241, RSMo, and to enact in lieu thereof one new section relating to honey.

**SECTION**

A. Enacting clause.

261.241. Sellers of honey, no manufacturing facilities required, when — exempt from health standards and regulations, when — label requirements.

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

**SECTION A. ENACTING CLAUSE.** — Section 261.241, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 261.241, to read as follows:

**261.241. SELLERS OF HONEY, NO MANUFACTURING FACILITIES REQUIRED, WHEN — EXEMPT FROM HEALTH STANDARDS AND REGULATIONS, WHEN — LABEL REQUIREMENTS.**

— 1. Sellers of [jams, jellies, and] honey whose annual sales of [jams, jellies, and] honey are [thirty] **fifty** thousand dollars or less per domicile shall not be required to construct or maintain separate facilities for the [manufacture] **bottling** of [jams, jellies, and] honey. Such sellers shall be exempt from all remaining health standards and regulations for the [manufacture] **bottling** of [jams, jellies, and] honey pursuant to sections 196.190 to 196.271 if they meet the following requirements:

(1) [Jams, jellies, and] Honey shall be [manufactured] **bottled** in the domicile of the person [processing] **harvesting** and selling the [jams, jellies, and] honey [and sold by the manufacturer to the end consumer];

(2) [Jams, jellies, and] Honey shall be labeled with the following information in legible English as set forth in subsection 2 of this section;

(3) [During the sale of such jams, jellies, and honey, a placard shall be displayed in a prominent location stating the following: "This product has not been inspected by the Department of Health and Senior Services.";

(4) Annual gross sales shall not exceed [thirty] **fifty** thousand dollars. The person [manufacturing] **harvesting** such [jams, jellies, and] honey shall maintain a record of sales of [jams, jellies, and] honey [processed] **bottled** and sold. The record shall be available to the regulatory authority when requested.

2. The [jams, jellies, and] honey shall be labeled with the following information:

(1) Name and address of the persons preparing the food;

(2) Common name of the food; **and**

(3) The name of all ingredients in the food; and

(4) Statement that the jams, jellies, and honey have not been inspected by the department of health and senior services].

3. Sellers of [jams, jellies, and] honey who violate the provisions of this section may be enjoined from selling [jams, jellies, and] honey by the department of health and senior services.

Approved July 10, 2015

SB 524 [SB 524]

**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 contractual fees charged by certain financial institutions**

AN ACT to repeal sections 362.111, 369.159, and 370.073, RSMo, and to enact in lieu thereof three new sections relating to contractual fees charged by certain financial institutions.

SECTION

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

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

**SECTION A. ENACTING CLAUSE.** — Sections 362.111, 369.159, and 370.073, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 362.111, 369.159, and 370.073, to read as follows:

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

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

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

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

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

**369.159. FEE OR SERVICE CHARGE AUTHORIZED.** — An association may impose fees or service charges on accounts; however, such fees or service charges are subject to such conditions or requirements that may be fixed by regulations pursuant to section 369.301 by the director of the division of finance and the board. Notwithstanding any law to the contrary, no such condition or requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution **and no contractual fee charged for overdrawing the balance of a deposit account shall be deemed interest.**

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

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

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

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

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

Approved June 22, 2015

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SB 539 [SCS SB 539]

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

**Allows the county commission, or a county officer designated by the county commission, to provide passport services if the circuit court clerk does not provide the services**

AN ACT to amend chapter 49, RSMo, by adding thereto one new section relating to the authority of county officers to provide passport services.

SECTION

A. Enacting clause.

49.130. Passports, processing of applications, commission may provide service, when — fees.

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

**SECTION A. ENACTING CLAUSE.** — Chapter 49, RSMo, is amended by adding thereto one new section, to be known as section 49.130, to read as follows:

**49.130. PASSPORTS, PROCESSING OF APPLICATIONS, COMMISSION MAY PROVIDE SERVICE, WHEN — FEES.** — **If the clerk of the court in the circuit in which the county is located does not offer passport service as provided under section 483.537, the county commission may take or process applications for passports or their renewal or may designate by order or ordinance any county officer to provide the service. Fees charged for the service shall be retained by the county office that provides the service.**

Approved June 30, 2015

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